

IN THE UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In re	:	Chapter 11
	:	
DPH HOLDINGS CORP., <u>et al.</u> ,	:	Case No. 05-44481 (RDD)
	:	
Reorganized Debtors.	:	(Jointly Administered)
	:	
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AFFIDAVIT OF SERVICE

I, Darlene Calderon, being duly sworn according to law, depose and say that I am employed by Kurtzman Carson Consultants LLC, the Court appointed claims and noticing agent for the Reorganized Debtors in the above-captioned cases.

On November 17, 2010, I caused to be served the documents listed below (i) upon the parties listed on Exhibit A hereto via electronic notification, and (ii) upon the party listed on Exhibit B hereto via postage pre-paid U.S. mail:

- 1) Reorganized Debtors' Second Supplemental Reply to Responses of ATEL Leasing Corporation to Reorganized Debtors' Objections to (I) Proof of Administrative Expense Claim Number 18427 and (II) the Administrative Expense Claim Asserted in the Motion of ATEL Leasing Corporation at Docket No. 6990 ("Second Supplemental Reply Regarding Administrative Expense Claims of ATEL Leasing Corporation") (Docket No. 20823) [a copy of which is attached hereto as Exhibit C]
- 2) Reorganized Debtors' Statement in Further Support of Objection to Motion of Johnson Controls Inc. Power Solutions and Johnson Controls Battery Group, Inc. for an Order Compelling DPH Holdings to Comply with the Transfer Agreement Relating to Transfer of Delphi's New Brunswick Battery Facility to Johnson Controls, Inc., for Adequate Assurance of Financial Ability to Perform Under Transfer Agreement, and in the Alternative, for Leave to Take 2004 Examination of DPH Holdings Corp and for Other Relief ("Reorganized Debtors' Statement in Further Support of Objection to Johnson Controls' Motion") (Docket No. 20824)

On November 17, 2010, I caused to be served the document listed below upon the parties listed on Exhibit D hereto via overnight mail:

- 3) Reorganized Debtors' Second Supplemental Reply to Responses of ATEL Leasing Corporation to Reorganized Debtors' Objections to (I) Proof of Administrative Expense Claim Number 18427 and (II) the Administrative Expense Claim Asserted in the Motion of ATEL Leasing Corporation at Docket No. 6990 ("Second Supplemental Reply Regarding Administrative Expense Claims of ATEL Leasing Corporation") (Docket No. 20823) [a copy of which is attached hereto as Exhibit C]

On November 17, 2010, I caused to be served the document listed below upon the parties listed on Exhibit E hereto via overnight mail:

- 4) Reorganized Debtors' Statement in Further Support of Objection to Motion of Johnson Controls Inc. Power Solutions and Johnson Controls Battery Group, Inc. for an Order Compelling DPH Holdings to Comply with the Transfer Agreement Relating to Transfer of Delphi's New Brunswick Battery Facility to Johnson Controls, Inc., for Adequate Assurance of Financial Ability to Perform Under Transfer Agreement, and in the Alternative, for Leave to Take 2004 Examination of DPH Holdings Corp and for Other Relief ("Reorganized Debtors' Statement in Further Support of Objection to Johnson Controls' Motion") (Docket No. 20824)

Dated: November 19, 2010

/s/ Darlene Calderon

Darlene Calderon

State of California
County of Los Angeles

Subscribed and sworn to (or affirmed) before me on this 19th day of November, 2010, by Darlene Calderon, proved to me on the basis of satisfactory evidence to be the person who appeared before me.

Signature: /s/ Vanessa R. Quiñones

Commission Expires: 3/20/11

EXHIBIT A

Post-Emergence Master Service List

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EXHIBIT B

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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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	:	
In re	:	Chapter 11
	:	
DPH HOLDINGS CORP., <u>et al.</u> ,	:	Case Number 05-44481 (RDD)
	:	
	:	(Jointly Administered)
Reorganized Debtors.	:	
	:	
-----	x	

REORGANIZED DEBTORS' SECOND SUPPLEMENTAL REPLY TO RESPONSES OF
ATEL LEASING CORPORATION TO REORGANIZED DEBTORS' OBJECTIONS TO (I)
PROOF OF ADMINISTRATIVE EXPENSE CLAIM NUMBER 18427 AND (II) THE
ADMINISTRATIVE EXPENSE CLAIM ASSERTED IN THE MOTION
OF ATEL LEASING CORPORATION AT DOCKET NO. 6990

("SECOND SUPPLEMENTAL REPLY REGARDING ADMINISTRATIVE
EXPENSE CLAIMS OF ATEL LEASING CORPORATION")

DPH Holdings Corp. and certain of its affiliated reorganized debtors in the above-captioned cases (together with DPH Holdings Corp., the "Reorganized Debtors") hereby submit the Reorganized Debtors' Second Supplemental Reply To Responses Of ATEL Leasing Corporation To Reorganized Debtors' Objections To (I) Proof Of Administrative Expense Claim Number 18427 And (II) The Administrative Expense Claim Asserted In The Motion Of ATEL Leasing Corporation At Docket No. 6990 (the "Second Supplemental Reply"), and respectfully represent as follows:

Preliminary Statement

1. Contrary to the plain and unambiguous language of the ATEL Stipulation,¹ ATEL asserts two arguments in its Supplemental Response² for why the plain language of the release provision does not control: (i) the release in the ATEL Stipulation is ambiguous and open to two separate interpretations and (ii) in the alternative, if the release in the ATEL Stipulation is not ambiguous, then ATEL should be permitted to present evidence of unilateral mistake in connection with the negotiation and execution of the ATEL Stipulation, with the hope of striking the release language negotiated between the parties. (Supplemental Response ¶¶ 20-22.) To the contrary, "[i]f the contractual language is unambiguous, courts must interpret and enforce the contract as written, because an unambiguous contract reflects the parties' intent as a matter of law." In re Egbert R. Smith Trust, 480 Mich. 19, 25 (2008); see also Rory v. Continental Insurance Co., 473 Mich. 457, 468 (2005) (contracts are to be enforced as

¹ Capitalized terms used and not otherwise defined herein have the meanings ascribed to them in the Reorganized Debtors' Supplemental Reply To Responses Of ATEL Leasing Corporation To Reorganized Debtors' Objections To (I) Proof Of Administrative Expense Claim Number 18427 And (II) The Administrative Expense Claim Asserted In The Motion Of ATEL Leasing Corporation At Docket No. 6990 (Docket No. 20776) (the "First Supplemental Reply").

² Supplemental Response Of ATEL Leasing Corporation To Reorganized Debtors' Objections To (I) Proof Of Administrative Claim Number 18427 And (II) The Administrative Expense Claim Asserted In The Motion Of ATEL Leasing Corporation At Docket No. 6990 (Docket No. 20798) (the "Supplemental Response").

written); DaimlerChrysler Corp. v. Wesco Distribution, Inc., 281 Mich. App. 240, 248 (Mich. Ct. App. 2008) (quoting Badiee v. Brighton Area Schools, 265 Mich. App. 343, 351 (Mich. Ct. App. 2005) ("An unambiguous contract must be enforced according to its terms.")).

2. The release in the ATEL Stipulation is clear. First, ATEL released all claims relating to the ATEL Cure Proposal or Assumption and Assignment Objection. Second, ATEL released all claims "which the ATEL Releasing Parties have, ever had, or hereafter shall have against the Debtors." (ATEL Stipulation ¶ 3.) Moreover, the parties did contemplate a global release of all claims which arose before the date of the ATEL Stipulation, as reflected by the carve-out in paragraph 6 for any claims "arising after [October 7, 2009]." (ATEL Stipulation ¶ 6.)

3. This Court has already interpreted a substantially similar release provision in these chapter 11 cases, and accordingly the law of the case supports the Reorganized Debtors' position that the unambiguous terms of the release in paragraph 3 of the ATEL Stipulation effectively releases ATEL's administrative expense claims. (See Nov. 29, 2007 Hr'g Tr. at 49:4-10 ("Hr'g Tr.") ("[I]t is a release not only of claims, which may be susceptible to a somewhat narrow definition but might not apply to administrative expense claims . . . [b]ut also releases the right to assert any liability of any kind or nature whatsoever including those arising under statute. And of course, the basis for asserting an administrative expense is under Section 503(b) of the Bankruptcy Code.")) A copy of the relevant portion of the hearing transcript is attached hereto as Exhibit A. Moreover, the cases cited by ATEL to argue that broad releases are ambiguous if the release does not specify in a recital each claim being released are inapposite. Finally, a unilateral mistake by ATEL in releasing its claims that arose prior to the date of the ATEL Stipulation does not provide a basis for rewriting the terms of the contract.

Argument

4. For the reasons set forth below, each of proof of administrative expense claim number 18427 and the administrative expense claim asserted in the motion at docket number 6990 should be disallowed and expunged in its entirety, and ATEL's motion at docket number 6990 should be deemed moot because ATEL has not stated a valid claim (i.e. a sufficiency hearing is appropriate).³

B. The ATEL Stipulation Releases The Claims.

5. If a contract is unambiguous on its face, its proper construction is a question of law. Wilkie v. Auto-Owners Ins. Co., 469 Mich. 41, 47 (2003). Pursuant to the ATEL Stipulation, the release provides as follows:

The ATEL Releasing Parties further release and waive any right to assert any other claim, cause of action, demand, lien, or liability of every kind and nature whatsoever, including those arising under contract, statute, or common law, whether or not known or suspected at this time, which relate to the ATEL Cure Proposal or Assumption and Assignment Objection or which the ATEL Releasing Parties have, ever had, or hereafter shall have against the Debtors based upon, arising out of, related to, or by reason of any event, cause, thing, act, statement, or omission occurring before the date of this Stipulation.

(ATEL Stipulation ¶ 3 (emphasis added).) As discussed above, this Court has already ruled on the validity of a substantially similar release at the Twenty-Fifth Omnibus Hearing in these chapter 11 cases. The arguments raised by ATEL in its attempt to inject ambiguity into a crystal clear release run contrary to the law of the case. In November 2007, this Court denied a motion for administrative expense claim filed by Internet Corporation. (Hr'g Tr. 49-50.) Previously, Internet Corporation expressly released all prepetition claims against the Debtors as a part of the settlement of its proofs of claim numbers 14107, 14489, and 15770 (the "Interment Settlement

³ ATEL filed a motion at docket number 6990 that asserted amounts owed on account of postpetition lease payments that arose before February 17, 2007 and proof of administrative expense claim number 18427 that asserted amounts owed on account of postpetition lease payments that were due on or before May 31, 2009.

Agreement").⁴ At the hearing, this Court ruled that the release was "a release not only of claims, which may be susceptible to a somewhat narrow definition but might not apply to administrative expense claims . . . [b]ut also releases the right to assert any liability of any kind or nature whatsoever including those arising under statute. And of course, the basis for asserting an administrative expense is under Section 503(b) of the Bankruptcy Code." (Hr'g Tr. at 49:4-10.) Specifically, this Court ruled that because Internet's claim was "very clearly related to and by reason of a prepetition thing, the defining agreement, that gives rise to the right to the refund." (Id. at 49: 21-23.) And accordingly, "based on a reading of the settlement agreement, . . . Internet has released this claim." (Id. at 50:3-4.)

6. In its attempt to avoid the plain and unambiguous language of the broad release, ATEL asserts that "the recitals do not state that the parties intend to resolve any other issues or claims." (Supplemental Response ¶ 20.) Specifically, ATEL asserts that the intent of the ATEL Stipulation "was to resolve solely the parties' disputes concerning the cure amount and administrative expense claim for one group of equipment schedules." (Supplemental Response ¶ 9 (emphasis added).) ATEL contradicts its interpretation regarding the intent of the ATEL Stipulation later on in the same pleading, however, when it states that the ATEL Stipulation "expressly contains a recital that 'the Debtors and ATEL have reached an agreement to settle and resolve the ATEL Cure Proposal and the Assumption And Assignment Objection'." (Supplemental Response ¶ 20 (emphasis added).) The ATEL Cure Proposal, which is attached

⁴ The Internet Settlement Agreement provided that Internet Corporation:

Release[s] and waive[s] any right to assert any other claim, cause of action, demand, or liability of every kind and nature whatsoever, including those arising under contract, statute, or common law, whether or not known or suspected at this time, which relate to the Claim and which the Releasing Parties have, ever had, or hereafter shall have against the Debtors based upon, arising out of, related to, or by reason of any event, cause, thing, act, statement, or omission occurring before the Petition Date.

(See Docket No. 11075 Exh. B.)

hereto as Exhibit B, asserted a cure amount of \$710,881.87, which arose under the very same Leases described in the Supplemental Response and was not limited to the one group of equipment schedules that ATEL asserts were released in the ATEL Stipulation. Moreover, paragraph 6 of the ATEL Stipulation contains an express carve-out from the broad release in paragraph 3, further refuting ATEL's argument that the other provisions of the contract favor a narrow reading of the release. Paragraph 6 of the ATEL Stipulation states:

Any claims arising after the date of this Stipulation or relating to outstanding postpetition obligations that are not yet due and payable in connection with ATEL contracts being in connection with ATEL contracts being assumed by the Debtors and assigned to the applicable buyer shall either be (i) paid in the ordinary course or (ii) subject to the procedures set forth in the Modified Plan for the payment of Administrative Claims.

(ATEL Stipulation ¶ 6 (emphasis added).) Thus, the terms of the ATEL Stipulation itself contemplate a broad release.

7. To support its assertion that the release is ambiguous, ATEL relies on Rickel & Assoc., Inc. v Smith, 272 B.R. 74 (Bankr. S.D.N.Y. 2002).⁵ Rickel is not on point. In Rickel, the defendants "intentionally or recklessly provided . . . false information" and defrauded the debtor-plaintiff and the creditors' committee into selling stock warrants owned by the debtor-plaintiff to the defendants for much less than they were actually worth. Id. at 82.

8. One of the defendants in Rickel attempted to rely on broad release language contained in a settlement of an employment dispute between himself and the debtor-plaintiff where bad faith and potential fraud were at issue. Notably, the release language was contained in a settlement agreement executed in June 2000, only three months after the sale in

⁵ The other cases upon which ATEL relies are also distinguishable. See Warden v. E.R. Squibb & Sons, 840 F. Supp. 203 (E.D.N.Y. 1993) (construing agreement so that it is legally enforceable); Perritano v. Mamaroneck, 126 A.D. 2d 623 (N.Y. App. Div. 2d Dep't 1987) (determining rights under collective bargaining agreement).

question and nearly eight months before the court appointed examiner filed its report examining the potentially fraudulent activity of the defendant. Rickel, 274 B.R. at 84. Moreover, another provision of the settlement agreement contained a waiver of rights, but the debtor (the releasing party) did not waive any rights pursuant to that provision. Id. at 86. Accordingly, the bankruptcy court found that the settlement agreement contained "facial ambiguity." Id.

9. The ATEL Stipulation, on the other hand, was the result of good faith negotiations between sophisticated parties represented by counsel to reach the resolution of a commercial dispute. Moreover, there are no conflicting provision of the ATEL Stipulation and no allegations of underlying fraud. And unlike Rickel, where the party granting the releases may not have known of the claims it was releasing (or believed these claims were not valuable due to the misrepresentations of the defendant), the ATEL Stipulation contains a release of claims already asserted by ATEL at the time the ATEL Stipulation was signed.⁶ Indeed, as explained above, the carve-out in paragraph 6 of the ATEL Stipulation reflects a knowledge of what was being released. Under Michigan law, the express terms of a release govern its scope See Taggart v. United States, 880 F.2d 867, 869 (6th Cir. Mich. 1989); see also Locafrance U.S. Corp. v. Intermodal Sys. Leasing, Inc., 558 F.2d 1113, 1115 (2d Cir. 1977) (where a general release is given in a commercial dispute, and reflects the product of negotiation by parties represented by counsel, it is less likely that a court will find the broad language to be inadvertent or unintended.).

10. Furthermore, ATEL's interpretation of the release would render large sections of paragraphs 3 and 6 of the ATEL Stipulation superfluous. Courts disfavor contract

⁶ Claims arising under the very same Leases that were asserted in Claim 18427 and the ATEL Administrative Claim asserted in the Motion were also asserted in the ATEL Cure Proposal.

interpretations that render provisions of a contract superfluous. See Klapp v United Ins. Group Agency, Inc., 468 Mich. 459, 468 (2003) ("A court must give effect to every word, phrase, and clause in a contract and avoid an interpretation that would render any part of the contract surplusage or nugatory."); see also Third Horizon Group V. Molitor & Molitor, Inc., 2001 Mich. App. LEXIS 1159, *9 (Mich. Ct. App. Aug. 24, 2001). Specifically, ATEL asserts that the broad release only relates to the Assumption and Assignment Agreement and the ATEL Cure Proposal. According to ATEL's interpretation, the emphasized language would be superfluous:

The ATEL Releasing Parties further release and waive any right to assert any other claim, cause of action, demand, lien, or liability of every kind and nature whatsoever, including those arising under contract, statute, or common law, whether or not known or suspected at this time, which relate to the ATEL Cure Proposal or Assumption and Assignment Objection or which the ATEL Releasing Parties have, ever had, or hereafter shall have against the Debtors based upon, arising out of, related to, or by reason of any event, cause, thing, act, statement, or omission occurring before the date of this Stipulation.

(ATEL Stipulation ¶ 3.) Because ATEL expressly released "any right to assert any other claim, cause of action, demand, lien, or liability of every kind and nature whatsoever, including those arising under contract, statute, or common law, whether or not known or suspected at this time . . . which the ATEL Releasing Parties have, ever had, or hereafter shall have against the Debtors based upon, arising out of, related to, or by reason of any event, cause, thing, act, statement, or omission occurring before the date of this Stipulation," any argument that ATEL may have regarding the narrow interpretation of the release provision of the ATEL Stipulation is without merit. Likewise, if ATEL's interpretation of the release were correct, the carve-out in paragraph 6 of the ATEL Stipulation for claims "arising after the date of the Stipulation" would be unnecessary because nothing other than the ATEL Cure Proposal or Assumption and Assignment Objection would have been released. (ATEL Stipulation ¶ 6.)

11. ATEL Cannot Rewrite The ATEL Stipulation On The Grounds Of Unilateral Mistake. "To obtain reformation, a plaintiff must prove a mutual mistake of fact, or mistake on one side and fraud on the other, by clear and convincing evidence. A unilateral mistake is not sufficient to warrant reformation. A mistake in law – a mistake by one side or the other regarding the legal effect of an agreement – is not a basis for reformation." Casey v. Auto Owners Ins. Co., 729 N.W. 2d 277, 285 (Mich. Ct. App. 2006). Because there is no allegation of fraud or wrongdoing by the Debtors and the ATEL Stipulation is unambiguous, even a unilateral mistake of fact by ATEL would not provide a basis for reforming or rescinding the ATEL Stipulation. Accordingly, an evidentiary hearing is not necessary to establish that paragraph 3 of the ATEL Stipulation releases any claims against the Reorganized Debtors arising prior to October 7, 2009. See generally, Wilkie v. Auto-Owners Ins. Co., 469 Mich. 41, 47 (2003) (the proper interpretation of a contract is a question of law).

Conclusion

12. For the foregoing reasons, and because ATEL's claims arose before October 7, 2009 and have been fully released pursuant to the ATEL Stipulation, therefore (a) ATEL has not met its burden of proof to establish a claim against the Reorganized Debtors and (b) the Claims fail to state a claim against the Reorganized Debtors under Bankruptcy Rule 7012. Because the Claims have been fully released by the ATEL Stipulation, the Forty-Sixth Omnibus Claims Objection and the Forty-Eighth Omnibus Objection should be sustained as to the Claims, and each of the Claims should be disallowed and expunged in its entirety. Furthermore, because all other issues asserted in the Motion were resolved through the Assumption and Assignment Process, the Motion should be rendered moot.

WHEREFORE the Reorganized Debtors respectfully request this Court enter an order (a) sustaining the objections relating to the Claims, (b) disallowing and expunging each of the Claims in its entirety, (c) rendering moot the motion of ATEL Leasing Corporation filed at docket number 6990, and (d) granting such further and other relief this Court deems just and proper.

Dated: New York, New York
November 17, 2010

SKADDEN, ARPS, SLATE, MEAGHER
& FLOM LLP

By: /s/ Ron E. Meisler
John Wm. Butler, Jr.
John K. Lyons
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- and -

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Attorneys for DPH Holdings Corp., et al.,
Reorganized Debtors

Exhibit A

1
2 UNITED STATES BANKRUPTCY COURT

3 SOUTHERN DISTRICT OF NEW YORK

4 Case No. 05-44481

5 - - - - -x

6 In the Matter of:

7
8 DELPHI CORPORATION,

9
10 Debtor.

11
12 - - - - -x

13
14 United States Bankruptcy Court

15 One Bowling Green

16 New York, New York

17
18 November 29, 2007

19 10:08 AM

20
21 B E F O R E:

22 HON. ROBERT D. DRAIN

23 U.S. BANKRUPTCY JUDGE
24
25



1 and adequate notice. And, frankly, I think what you're doing,
2 as far as the particularized notices, is more than the rule
3 requires. But I'm happy to hear that motion.

4 MR. BUTLER: Your Honor, I'm actually hopeful that
5 Your Honor, when we file the motion at the end of the day, that
6 we will be able to continue our current procedures. Because we
7 think they are with Your Honor early on in this case one in
8 particularized notice and we've been doing that. So I think
9 that we probably far see the amended Rule. But the point for
10 us is we simply didn't want to have an ambiguity in this record
11 and then have all of a sudden objections based on --

12 THE COURT: No, I understand that.

13 MR. BUTLER: -- noncompliance of the rules. So --

14 THE COURT: I understand that. That's fine.

15 MR. BUTLER: So we will be filing that on Friday for
16 consideration.

17 THE COURT: Okay. In other words, I think you can
18 still have omnibus objections as long as people get
19 particularized notice.

20 MR. BUTLER: Thank you, Your Honor, for that
21 guidance.

22 THE COURT: Okay.

23 MR. BUTLER: Your Honor, the last matter on today's
24 agenda, now moving as matter number 8, this is Internet
25 Corporation's motion for payment of administrative expenses.

1 There are a small number of exhibits before I cede the podium
2 to Mr. Dragich for their argument. There are a small number of
3 exhibits that I believe there's no objection to in terms of
4 being put into the record which was Exhibit 1 is Intermet's
5 motion for payment of the administrative expense claim and the
6 various exhibits. Exhibit 2 is our objection with the various
7 evidentiary exhibits, the contracts and so forth, the
8 settlement agreements. And then the prior joint stipulation
9 between the parties that Your Honor signed at docket number
10 9696. But seeing as this argument in part relates up to the
11 documents between the parties, we wanted to move those matters
12 into evidence. There is no objection, I believe.

13 THE COURT: No opposition?

14 MR. DRAGICH: No objection, Your Honor.

15 THE COURT: Okay. Can I start with a point the
16 debtors raised towards the end of their objection that I don't
17 think you've had a chance to respond to, which is why isn't
18 this claim barred by the settlement agreement from August?

19 MR. DRAGICH: Your Honor, for the record, David
20 Dragich from Foley & Lardner on behalf of Intermet Corporation.
21 In response to your question, the claim -- Intermet's claim,
22 whatever its character, whether it's administrative or a pre-
23 petition claim, is not barred or waived as a consequence of the
24 settlement agreement. Your Honor, if we turn to the debtor's
25 objection in paragraph 14, it recites the language of the

1 settlement agreement. And the very last three lines, let's
2 say, it provides that the debtors release or waive the claims
3 arising out of events, causes, acts, statements or omissions --

4 THE COURT: Well, you left --

5 MR. DRAGICH: -- which occurred before --

6 THE COURT: You left out some language. The release
7 says "The releasing parties" -- which would include Internet --
8 "further release and waive any right to assert any other claim,
9 cause of action, demand or liability of every kind and nature
10 whatsoever, including those arising under contract statute or
11 common law whether or not known or suspected at this time which
12 relate to the claim in which the releasing parties have, ever
13 had or hereafter shall have against the debtors based upon
14 arising out of, related to or by reason of any event, cause,
15 thing, act, statement or omission occurring before the petition
16 date." And I'm assuming what the debtors contend is that this
17 is at least related to the 2003 contract since that's what
18 gives rise the right to a rebate -- refund, a refund of the
19 rebate. I mean, I understand. If it said -- but the word
20 "related to" is pretty broad.

21 MR. DRAGICH: Well, Your Honor, it depends. I agree
22 that it's broad. But it says related to or by any reason of
23 any event, cause, thing or omission occurring -- it relates to
24 those acts or omissions before -- that occurred before the
25 petition date. It's our position, Your Honor, that the act or

1 the omission, Delphi's failure and cessation of ordering parts
2 from Intermet, was a post-petition act not one --

3 THE COURT: But isn't the "thing" -- you know, they
4 use that word "thing", too. Isn't the "thing" the contract?

5 MR. DRAGICH: The contract is what defines the
6 parties' obligation but the breach or the termination -- it's
7 our view was the post-petition -- arose from the post-petition
8 conduct of the debtor.

9 THE COURT: And it has no relation to the "thing" --
10 to the contract?

11 MR. DRAGICH: Well, it's an obligation of the
12 contract so, yes.

13 THE COURT: So it relates to it.

14 MR. DRAGICH: We're reading -- Intermet and the
15 debtors read the clause differently, Your Honor.

16 THE COURT: Okay.

17 MR. DRAGICH: And that is that it's our view the
18 "related to" is not relates to the contract. It relates to the
19 act or omission. And if it's the act or omission that we're
20 addressing, that's the post-petition omission by the debtor to
21 order the steering knuckles under the supply agreement from
22 Intermet.

23 THE COURT: Okay.

24 MR. DRAGICH: Your Honor seems relatively familiar
25 with the background. Would you like a brief recitation of some

1 of the underlying facts, Your Honor, that are not in dispute?

2 THE COURT: Well, let me just -- only one point. And
3 it goes back to the settlement agreement again. What is the
4 relation of this rebate agreement to the claim that was filed?
5 Was the rebate agreement related to the provision of the
6 products and services that were covered by the claim?

7 MR. DRAGICH: I don't recall, Your Honor. I can't
8 answer that as I sit here -- stand here.

9 THE COURT: Okay. Okay. All right.

10 MR. DRAGICH: Your Honor, what -- the factual issues
11 are largely agreed to between the parties as far as entry into
12 the supply agreement, entry into the rebate agreement and what
13 the rebate requires of the parties. So I won't repeat those
14 here. What the parties have agreed to do with respect to the
15 claim, if Your Honor allows the claim, whether it be
16 administrative or pre-petition, the amount of that claim has
17 not yet been reconciled. The debtor has not said outright that
18 there is no claim -- or no claim. Whether it should be allowed
19 or not is a separate issue. But the parties have agreed that
20 if Your Honor grants a claim, whether it be administrative or
21 pre-petition, that an evidentiary hearing be scheduled for the
22 next omnibus hearing to determine what that amount is.

23 THE COURT: Okay.

24 MR. DRAGICH: Your Honor, what we request is that the
25 Court allow an administrative claim pursuant to the obligations

1 of the rebate agreement. Intermet views this as a post-
2 petition administrative claim because it arose solely because
3 of the debtors' post-petition conduct, its termination of the
4 supply agreement. Your Honor approved a sale today regard the
5 Saginaw Chassis asset sale motion. And that sale sold
6 substantially all of the assets that the debtor used in
7 supplying General Motors pursuant to the GMT 900 program.
8 Intermet in turn supplied Delphi pursuant to that program. So
9 if Delphi is no longer supplying at all as a result of that
10 sale, there has been a termination of the contract that in 2007
11 September, just a couple months ago, at that time, the debtors
12 ceased ordering parts from Intermet. But for two years --

13 THE COURT: Well, see, you're not saying they've
14 actually formally terminated but they're in anticipatory breach
15 in essence?

16 MR. DRAGICH: We believe, Your Honor, they've
17 terminated by their conduct. And we've sent them ---

18 THE COURT: At a minimum it would be anticipatory
19 breach, I guess.

20 MR. DRAGICH: Which we've given a notice pursuant to
21 our letter prior to this motion. The motion itself could be
22 deemed a notice of termination as a consequence of that breach.
23 They clearly, Your Honor, are not going to be ordering
24 additional parts from Intermet. They no longer supply pursuant
25 to that program.

1 The purpose behind this concept, Your Honor, under
2 503 of the Code is to encourage parties to continue to do
3 business with the debtor on a post-petition basis. This
4 section assumes that if the debtor commits a post-petition
5 breach as part of that ongoing relationship, the nondebtor
6 party will be protected. It will be protected because it will
7 be awarded a resulting administrative claim. That's what
8 Intermet requests today, Your Honor.

9 THE COURT: How does this further that policy?

10 MR. DRAGICH: Your Honor, for two years
11 post-petition -- so almost two years. From October 2005 until
12 September 2007, Intermet performed under that contract. That
13 entire contract, when viewed in total, imposed upon the debtor
14 the obligation if it didn't order the minimum requirements to
15 refund that advanced rebate that was previously paid by
16 Intermet. That was a central component of the contract.
17 Intermet relied on all terms of the contract in providing a
18 benefit to the debtor for almost two years during the
19 bankruptcy proceeding.

20 THE COURT: How's that different from the pension
21 years in McFarland's Race Elevator? They worked for the debtor
22 post-petition.

23 MR. DRAGICH: But, Your Honor, as --

24 THE COURT: But --

25 MR. DRAGICH: I'm sorry.

1 THE COURT: -- the Court said that the consideration
2 for the particular claim that was asserted to be an
3 administrative claim was provided pre-petition.

4 MR. DRAGICH: Can you repeat your question, Your
5 Honor. I'm not sure I followed that.

6 THE COURT: Well, those people worked post-petition.
7 And they were paid for their post-petition work. And they were
8 paid for their -- the portion of their post-petition pension
9 that came due post-petition for the post-petition work. But
10 the second circuit said the claim based on pre-petition
11 consideration, even though it accrued post-petition, was a pre-
12 petition claim. And even though they were working post-
13 petition. They were under a contract that covered the whole --
14 you know, pre- and post-petition period. But the Court said
15 this consideration they already provided by their hours worked
16 pre-petition. Therefore it's a pre-petition claim.

17 MR. DRAGICH: I think the situation here is different
18 though, Your Honor, because in this instance Internet has
19 provided value to the debtor post-petition in the form of
20 continuing its supply.

21 THE COURT: They were working. I mean, there's
22 nothing more valuable than having an employee show up at the
23 office and do his or her job.

24 MR. DRAGICH: Agreed, Your Honor. And they were paid
25 for that labor. Like Internet was paid for the goods that it

1 shipped. However, the difference is, Your Honor, is that here
2 we're dealing with a commercial contract. And all of the
3 commercial terms are relevant as far as inducing the parties to
4 act. In this instance, Internet assumed and performed the
5 contract on the basis that the debtor would return performance.
6 Meaning, they were only willing to assume the risk of
7 continuing supply if the debtor would then also perform its
8 obligation if it didn't fulfill the minimum requirements.

9 THE COURT: Did Internet move to compel assumption or
10 rejection of the contract?

11 MR. DRAGICH: It didn't, Your Honor, because -- nor
12 did the debtor reject the contract. If the debtor truly wanted
13 to relieve itself of the obligations within the rebate
14 agreement or the underlying supply agreement, it could have
15 rejected the contract. It didn't do that. It simply --

16 THE COURT: It didn't assume it, though, either, did
17 it?

18 MR. DRAGICH: No, Your Honor. By its conduct, it
19 breached the contract and in our view terminated. The whole
20 purpose of the contract is now gone, Your Honor, because the
21 debtor no longer supplies General Motors pursuant to that
22 program. So there would be no business purpose for the debtor
23 to assume a contract that it's not performing.

24 Just moving to one other issue raised in the debtors'
25 objection, Your Honor, I think I've addressed our view on the

1 waiver issue pursuant to the settlement agreement. I'd also --
2 the debtor also argues in the objection that Intermet somehow
3 waived its claim by failing to file a proof of claim. The
4 debtor contends that Intermet had merely a contingent claim.
5 If Your Honor accepted that view, every party in this case,
6 every nondebtor party to an executory contract would have to
7 file a proof of claim irrespective of whether there's been a
8 pre-petition breach. Surely that's not a requirement that the
9 Court would impose on each and every nondebtor party to a
10 contract. At the time of the filing, at the time of the bar
11 date, there had been no termination of the contract and
12 therefore Intermet would not have reason to file a claim. So
13 for that reason, Your Honor, Intermet believes it had not
14 waived the claim in any way as far as failing to file a proof
15 of claim because it wasn't required to. And second, the
16 settlement agreement does not constitute a waiver because it
17 deals solely with acts or omissions of the debtor giving rise
18 to a claim that were pre-petition. And it's our view that the
19 acts that gave rise to the claim in this instance were post-
20 petition. Thank you, Your Honor.

21 THE COURT: Okay.

22 MR. BUTLER: Your Honor, I only have a couple of
23 observations. The first observation is that I understand Mr.
24 Dragich's need to argue what he does which this -- and he
25 relies in looking at Exhibit 2-B, the settlement agreement, and

1 at the relevant paragraph there that Your Honor discussed on
2 the record with him. And he relies on the words before the
3 petition date which is a concession as we're concerned that
4 if -- that he's saying all these acts occurred after the
5 petition date and somehow were not related because I think it's
6 a concession by Internet that if in fact it was before the
7 petition date, they are barred by the settlement agreement and
8 they did not file any other proof of claim. The proof of claim
9 that has -- so they're either barred by the bar date order or
10 they're barred by their own signature on a settlement
11 agreement.

12 THE COURT: Well, I don't see how they'd be barred by
13 the bar date order because the bar date order gives a -- you
14 haven't rejected this contract yet.

15 MR. BUTLER: Right. Your Honor -- that's correct,
16 Your Honor, but the reality is that if people have specific
17 claims, for example, I mean -- and I know the facts are in
18 dispute here and I think that among the facts that are not in
19 dispute just so the record indicates, Your Honor, the 417,200
20 dollars is, I think -- the debtors would concede the
21 appropriate calculation under the contract. But that relates
22 to -- the vast majority of that relates to transactions that
23 occurred in the pre-petition period. And Internet knows that
24 as well.

25 THE COURT: Well, that's -- I'm sorry. That's why I

1 asked -- I didn't ask this correctly. This rebate agreement is
2 just -- there's this one-page agreement. Is it incorporated in
3 some other executory contract where they were supposed to be
4 providing this knuckle?

5 MR. BUTLER: No. As I understand it, Your Honor, the
6 rebate agreement was part of the original undertaking back in
7 200 -- I think it's 2003, if I remember the exact date.

8 THE COURT: I'm not sure it matters. It goes to the
9 bar date issue. If it's part and parcel of an agreement that's
10 still executory and hasn't been rejected, then I think they
11 have more time to file a proof of claim. If it's a stand alone
12 document, I think you're probably right, that they were
13 obligated to file a proof of claim because a big portion of it
14 is pre-petition. And liquidated.

15 MR. BUTLER: Yes, Your Honor.

16 THE COURT: But it's just not clear to me whether it
17 is part of -- whether it's a stand alone agreement or whether
18 it's actually a rider to or an exhibit to or incorporated in an
19 ongoing agreement.

20 MR. BUTLER: Your Honor, I mean, they haven't -- this
21 is their proof of claim, their motion. I mean, I know the
22 facts -- the facts of the case are it is a stand alone
23 agreement. It relates to the transaction. It relates to it.

24 THE COURT: Well, that's a separate issue about
25 whether --

1 MR. BUTLER: I know, but that's the point. And --

2 THE COURT: Yeah.

3 MR. BUTLER: And that's sort of observation number
4 one. Your Honor, observation number two is that Internet knows
5 the law here. They know the law applicable to this and it's
6 not what they just argued before Your Honor. They understand
7 Ace Elevator, Your Honor's case. They understand second
8 circuit law and they understand that administrative priority
9 claims require that the claim arise out of a post-petition
10 transaction on the part of the debtor and be allowable only to
11 the extent that the consideration supporting the claim is right
12 to payment was both supplied to and beneficial to the debtors'
13 estate and the operation of its business from the Ace Elevator
14 Company case. And the reason we know that is because they
15 themselves -- Internet Corporation was a debtor itself in
16 Chapter 11. That is exactly the lines they used in fighting
17 all of the administrative claims in their case. And we filed
18 an example of that, which is now before Your Honor as Exhibit
19 2-A, the Internet objection -- their omnibus objection to
20 claims in their case that was filed. So Internet knows the
21 law.

22 THE COURT: Do you know, did they win on that one?

23 MR. BUTLER: Yeah. I have no idea what the outcome
24 was.

25 THE COURT: Okay. I mean, because if they did, you

1 may have a judicial estoppel point. Otherwise --

2 MR. BUTLER: But it states -- well, it's their
3 position. It's not -- I don't know what their judgment -- whether
4 the judge agreed.

5 THE COURT: No, I know.

6 MR. BUTLER: It certainly indicates what their view
7 is.

8 THE COURT: It's the difference between shrugging
9 your shoulders and say well, I felt that one day but I feel it
10 different today and actually being estopped as a legal matter.

11 MR. BUTLER: Yeah. I haven't gone through the -- and
12 sought what the order was. My -- I suspect in fact that they
13 did win it but we certainly could find out, Your Honor.

14 THE COURT: Okay.

15 MR. BUTLER: But that's certainly -- Internet knows
16 the issue. And then finally, whether or not they themselves
17 were judicially estopped based on that position they've taken
18 in their cases, the fact is they can't -- this claim can't
19 survive as an administrative claim under the law here in the
20 second circuit and in this district.

21 THE COURT: Okay.

22 MR. BUTLER: There is no question here that this did
23 not arise out of a pre-petition transaction. We agree with Mr.
24 Dragich the facts are the facts and they've been indicated
25 here. This was a December 12th, 2003 letter agreement. The

1 rebate was advanced at that time. The majority of the
2 production here occurred in 2004 and 2005 prior to the Chapter
3 11 being filed. There was never an attempt by them to seek
4 assumption of the contracts. Other parties have. Your Honor
5 knows there is a contract assumption procedures process here in
6 this case that suppliers insisted on. They never availed
7 themselves of any of those issues. And while it's true the
8 debtors have not terminated this contract, this contract may
9 well to the extent that it has no benefit to the estate be
10 rejected and then the rejection would be considered under the
11 Bankruptcy Code a pre-petition rejection not an administrative
12 act. There is no administrative act here.

13 And I just don't see either under the case law
14 applicable in this district or under the actual facts of this
15 case or given the failure of Internet to protect any interest
16 it might have with respect to the executory contract in this
17 case for the last two and a half years to come in and now say
18 oh, well, it can't be a pre-petition claim so now it's got to
19 be administrative because that's the only way we can win is
20 something, Your Honor, that the Court should dispose of. Thank
21 you.

22 THE COURT: Okay.

23 MR. DRAGICH: Your Honor, may I address --

24 THE COURT: Yeah. You could stay there if you're --
25 that's fine.

1 MR. DRAGICH: Okay. Thank you, Your Honor. Just
2 with respect to the pleading that the debtors attached that
3 Intermet filed in its own case, Your Honor, I don't think we
4 have a disagreement as to what the law says. And I think we
5 accurately cited it in our papers in our case.

6 THE COURT: I'm not going to hold it against you.

7 MR. DRAGICH: Well, Your Honor, I'd like to just
8 explain, Your Honor, our position on that because I think it
9 bears responding to the debtors' remarks.

10 If the debtor engages in a post-petition act that
11 causes the nondebtor party damages, it's our position that the
12 creditor is entitled to an administrative claim. If the
13 nondebtor party provides value to the debtor post-petition and
14 the debtor accepts that benefit, we believe that the nondebtor
15 party is entitled to administrative claim. That's what our
16 papers say.

17 How you apply the facts of the situation in the
18 Intermet case and here is the issue where we disagree. In that
19 case, Your Honor, just very briefly, there were services
20 rendered by sales representatives pre-petition. And the
21 argument in that case by the representatives was that the
22 debtor, Intermet in that case, post-petition failure to renew a
23 contract gave rise to administrative claims. So we're talking
24 about totally different facts, Your Honor, and that's why we
25 believe the cases are not on the same issue.

1 THE COURT: But this -- you have to admit this is not
2 a tort, right? They didn't burn down Internet's building, as
3 I'm reading in Brown. The wrong here is a breach of a
4 contract, isn't it?

5 MR. DRAGICH: Agreed, Your Honor. Post-petition
6 breach is our view.

7 THE COURT: Well, all right. Of a contract that
8 hasn't been assumed.

9 MR. DRAGICH: Correct, Your Honor. We believe it's
10 been terminated by the debtors' conduct.

11 THE COURT: All right. Okay. All right. Internet
12 Corporation seeks allowance as an administrative claim of its
13 right to a refund under a 2003(e) pre-petition agreement with
14 Delphi Automotive Services -- Systems, excuse me, LLC, DAS LLC.
15 As is clear from the claim and from oral argument, that claim
16 is premised upon the alleged post-petition breach of that
17 agreement. The agreement has not been assumed by DAS LLC nor
18 rejected. However, Internet contends that with the sale, which
19 I've approved today, of the Saginaw Michigan operation, DAS LLC
20 is at least an anticipatory breach of the agreement and that it
21 is no longer capable of being performed further without their
22 being a refund owed under it.

23 It appears from Exhibit C to the motion for
24 administrative expense payment that a large portion of the
25 refund is attributable to pre-petition conduct of DAS LLC in

1 addition to being based upon a pre-petition agreement.

2 As was noted at oral argument, although it was
3 asserted that this element of the agreement was important to
4 Intermet, Intermet has never moved in this case to compel
5 assumption or assignment of the -- I'm sorry, assumption or
6 rejection of the agreement under the procedures previously
7 adopted by the Court for such requests.

8 The debtor objects to the administrative expense
9 claim on two main grounds, at least the two grounds that I'm
10 going to focus on. The first, is that the administrative
11 expense claim is barred as having been released by Intermet
12 pursuant to a settlement agreement that it entered into in
13 August of this year with Delphi Corporation on behalf of itself
14 and certain of its U.S. affiliates, including DAS LLC. In that
15 agreement, the releasing parties, which include Intermet,
16 agreed upon the allowed amount of a large claim that had been
17 failed by Intermet, roughly 3.7 million dollars, as a pre-
18 petition general unsecured claim. And then provided for a
19 further release and waiver of any right "to assert any other
20 claim, cause of action, demand or liability of any kind and
21 nature whatsoever including those arising under contract,
22 statute or common law, whether or not known or suspected at
23 this time which relate to the claim that was settled and which
24 the releasing parties have, ever had or hereafter shall have
25 against the debtors based upon arising out of, related to or by

1 reason of any event, cause, thing, act, statement or omission
2 occurring before the petition date."

3 I think two points are worth noting in respect of
4 this release. First, it is a release not only of claims, which
5 may be susceptible to a somewhat narrow definition but might
6 not apply to administrative expense claims. But also releases
7 the right to assert any liability of any kind or nature
8 whatsoever including those arising under statute. And of
9 course, the basis for asserting an administrative expense is
10 under Section 503(b) of the Bankruptcy Code.

11 Second, as discussed at oral argument, the release is
12 broadly written to apply to any such rights that Internet may
13 have or hereafter shall have by recognizing rights arising in
14 the future, i.e., during the post-petition period. Arising out
15 of, based upon or related to by reason of any event, cause of
16 action, thing, act statement or omission occurring before the
17 petition date.

18 Internet contends it can get out of this release or
19 that this release doesn't cover its administrative expense
20 claim because the administrative expense arises post-petition.
21 However, it is very clearly related to and by reason of a pre-
22 petition thing, the defining agreement, that gives rise to the
23 right to the refund, which is the 2003 contract. And it is at
24 a minimum related to that agreement since that's how the
25 calculation of the claim is made based upon the terms of the

1 rebate agreement or the refund provided for in the 2003
2 agreement.

3 So I conclude, based on a reading of the settlement
4 agreement, that Intermet has released this claim -- or this
5 administrative expense claim.

6 I will, however, address the other argument that the
7 debtor made here in opposition to the administrative expense
8 claim which is that even if the administrative expense claim
9 had not been released, it would not be entitled to
10 administrative expense treatment. I believe that that argument
11 is correct. The law on what constitutes an administrative
12 expense is quite clear in the second circuit and the parties
13 essentially acknowledge that with one exception that I should
14 deal with first. The cases cited first and foremost by
15 Intermet are cases involving post-petition torts or other
16 wrongful activity separate and apart from the breach of the
17 contract. And those cases, i.e., Reading Company v. Brown, 391
18 U.S. 471 (1968) and Pennsylvania Department of Environmental
19 Resources v. Tri-State Clinical Labs, Inc., 178 F.3d 685 (3d
20 Cir. 1999), therefore, really are not applicable here. The
21 Courts in those cases were dealing with the problems of
22 permitting a debtor to commit a tort or other wrongful activity
23 other than the breach of a contract post-petition. And having
24 that -- the victim of that wrongful activity nevertheless
25 compensated in so-called tiny bankruptcy dollars. And

1 obviously for the correct and good reasons concluded that that
2 would not be proper and therefore provide for an administrative
3 claim for such wrongful activity.

4 Here, however, the right as claimed by Internet to
5 have its breach claim treated as an administrative expense is
6 determined by those cases that deal with the rights of parties
7 to unassumed and unrejected executory contracts to assert a
8 claim for administrative expense treatment. And those cases
9 are clear that the claimant has a tough burden to sustain its
10 right to priority treatment under Section 503(b) which provides
11 for administrative expense priority for the actual necessary
12 cost and expenses of preserving the estate. As the Supreme
13 Court stated in *Howard Delivery Service, Inc. v. Zurich*
14 *American Insurance Co.*, 126 Supreme Court 2105 (2006), "to give
15 priority to a claimant not clearly entitled thereto is not only
16 inconsistent with the policy of equality of distribution, it
17 dilutes the value of the priority for those creditors that
18 Congress intended to prefer."

19 Given that well-established principle, the Courts in
20 this circuit have set forth a test for the allowance of an
21 administrative expense claim including on behalf of a party to
22 an unassumed and unrejected executory contract. That party
23 must demonstrate, one, that its claim arose from a transaction
24 with or on account of consideration furnished to the debtor-in-
25 possession; and, two, the transaction or consideration directly

1 benefited the debtor-in-possession. And the reference to the
2 debtor-in-possession there is key. It's not the debtor, i.e.,
3 the pre-petition debtor but the post-petition debtor. Here,
4 the transaction was with the pre-petition debtor under the 2003
5 contract and, more importantly, the consideration provided the
6 600,000 dollars was provided pre-petition. Therefore, there
7 was no inducement by the debtor-in-possession in return for
8 that consideration.

9 The fact that it is alleged at least that Intermet
10 continued to provide the steering knuckle sets post-petition is
11 no different to my mind than the fact that the employees of Ace
12 Elevator or McFarlands continued to work post-petition. The
13 particular claim that they were asserting and that Intermet is
14 asserting is premised upon the provision of pre-petition
15 consideration under a pre-petition agreement. And
16 consequently, under the law of this circuit, and I believe
17 everywhere else would be therefore treated as a pre-petition
18 claim if it were not waived. See generally In re Patient
19 Education Media, Inc., 221 B.R. 97 (Bankr. S.D.N.Y. 1998) which
20 I believe is the most favorable case to a claimant in
21 Intermet's position but clearly under the reasoning of Judge
22 Bernstein in that case, would not accord the administrative
23 expense status to someone in Intermet's position. See also In
24 re Ace Elevator, 347 B.R. 473 (Bankr. S.D.N.Y. 2006) and the
25 cases cited therein including specifically Trustees of

1 Amalgamated Insurance Fund v. McFarlands, Inc., 79 F.2d 98 (2d
2 Cir. 1986).

3 So, for those separate and independent reasons, each
4 of which would justify denial of the motion, I'll deny the
5 motion. So, Mr. Butler, you can submit an order to that
6 effect.

7 MR. BUTLER: Yes, Your Honor, we will. Your Honor,
8 that completes the matters set for the omnibus agenda today.

9 THE COURT: Okay. Thank you. Let's hope we all get
10 over our colds.

11 MR. BERGER: Yes, Your Honor.

12 (Whereupon these proceedings were concluded at 11:30
13 a.m.)

Exhibit B

BUCHANAN INGERSOLL & ROONEY PC
One Chase Manhattan Plaza
New York, New York 10005
Telephone: (212) 440-4400
Facsimile: (212) 440-4401
E-mail: susan.persichilli@bipc.com
Susan P. Persichilli, Esq. (SP- 0368)

*Attorneys for ATEL Leasing Corporation,
as agent for Eireann II, CAI-UBK Equipment,
CAI-ALJ Equipment, II BU de Mexico
S.A. de C.V. and Eireann III*

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

-----	X	
	:	Chapter 11
In re:	:	
	:	Case No. 05-44481 (RDD)
DELPHI CORPORATION, <u>et al.</u> ,	:	
	:	(Jointly Administered)
Debtors.	:	
-----	X	

CURE CLAIM OF ATEL LEASING CORPORATION

ATEL Leasing Corporation ("ATEL") as agent for: (i) Eireann II, a division of ATEL Transatlantic Investors, Inc. ("ATI"), (ii) CAI-UBK Equipment, a division of ATI, (iii) CAI-ALJ Equipment, a division of ATI, (iv) II Bu de Mexico S.A. de C.V., and (v) Eireann III, a division of ATEL Transatlantic Investors II, Inc. (collectively, the "Claimants"), by and through its counsel, Buchanan Ingersoll & Rooney PC, hereby submits this Cure Claim (the "Cure Claim") pursuant to Article 8.2 of the Debtors' First Amended Joint Plan of Reorganization of Delphi Corporation and Certain Affiliates, Debtors and Debtors in Possession, as Modified (the "Plan") and respectfully states as follows:



BACKGROUND

1. Pursuant to a certain Master Lease Agreement, dated as of August 19, 1997, General Motors Corporation ("GMC"), entered into a Master Lease Agreement ("MLA-American Finance") with American Finance Group, Inc. ("American Finance"). *See Exhibit A.*

2. Pursuant to a certain Master Lease Agreement, dated as of May 1, 1995, GMC entered into a Master Lease Agreement ("MLA-First American") with First American Capital Management Group, Inc. ("First American"). *See Exhibit A.*

3. Pursuant to the MLA-American Finance and MLA-First American master lease agreements, GMC entered into numerous Equipment Schedules (the Equipment Schedules, as they incorporate by reference all of the terms and conditions of the two Master Lease Agreements described herein, are hereinafter known as the "Leases"), regarding certain equipment, all with related equipment, attachments and accessories as set forth in the Leases (the "Equipment"). *See Exhibit A.*

4. Pursuant to one or more assignments, Delphi Corporation and certain of its subsidiaries and affiliates were assigned GMC's interests as Lessee under the Leases. *See Exhibit A.* Pursuant to various other assignments, the interests of American Finance and First American, as Lessors under their respective Leases, were assigned to one of the Claimants, with ATEL acting as agent for each Claimant. *See Exhibit A.*

BANKRUPTCY FILING

5. On October 8, 2005, and subsequently, on October 14, 2005 (collectively, the "Filing Date"), Delphi Corporation and certain of its subsidiaries and affiliates, the debtors in the above-captioned cases (collectively, the "Debtors") filed voluntary petitions for relief under chapter 11 of title 11 of the United State Code, as amended (the "Bankruptcy Code").

6. On July 28, 2006, ATEL timely filed a proof of claim, Claim No. 12195 (the "Claim") against Delphi Corporation, *et al.* and Delphi Automotive Systems, Inc. for amounts due and owing to ATEL under the Leases. A copy of the Claim is attached hereto as Exhibit A.¹ The Claim asserts a claim as of July 18, 2006 in the amount of \$4,140,179.97, of which \$582,300.00 is asserted as secured, \$3,306,138.54 as unsecured, and \$251,741.43 as an administrative expense claim.

7. On or about October 31, 2006, the Debtors objected to the Claim pursuant to the Debtors' Third Omnibus Objection (Substantive) Pursuant to 11 U.S.C. § 502(b) and Fed. R. Bankr. P. 3007 to Certain (A) Claims with Insufficient Documentation, (B) Claims Unsubstantiated by Debtors' Books and Records, and (C) Claims Subject to Modification and (II) Motion to Estimate Contingent and Unliquidated Claims Pursuant to 11 U.S.C. § 502(c) (the "Objection"). *See* Docket Entry No. 5452.

8. On or about November 22, 2006, ATEL filed a response to the Objection (the "Response"). *See* Docket Entry No. 5781.

9. On or about September 4, 2007, the Debtors filed Notice of Claims Objection Hearing with Respect to the Debtors' Objection to the Claim which provided for a hearing date of November 8, 2007. *See* Docket Entry No. 9242.

10. On or about September 11, 2007, the Debtors filed the Debtors' Statement of Disputed Issues with Respect to the Claim. *See* Docket Entry No. 9330.

11. On September 19, 2007, the Debtors' representatives and ATEL's representatives participated in a "meet and confer" pursuant to the Order Pursuant to 11 U.S.C. § 502(b) and

¹ The Proof of Claim filed with the Court included a copy of the underlying master lease agreements and leases together with the amendments and schedules thereto. As the agreements are voluminous they are not attached hereto, but will be made available upon request.

Fed. R. Bankr. P. 2002(m), 3007, 7016, 7026, 9006, and 9014 Establishing (i) Dates for Hearings Regarding Objections to claims and (ii) Certain Notices and Procedures Governing Objections to Claim, entered December 7, 2006. *See* Docket Entry No. 6089.

12. Subsequently, the Debtors and ATEL entered into a Joint Stipulation and Agreed Order Compromising and Allowing Proof of Claim Number 12195 (the "Claims Stipulation"), that was approved by this Court on November 5, 2007. The Claims Stipulation provides, among other things, that the Claim shall be allowed in the amount of \$191,055.40 and shall be treated as an allowed general unsecured non-priority claim against the estate of DLS, LLC. *See* Docket Entry No. 10842.

13. On December 10, 2007, this Court approved the Debtors' disclosure statement and on the same day, the Debtors filed the Plan.

14. On December 28, 2007, the Debtors filed Exhibit 8.1(a) to the Plan, which discloses three categories of executory contracts and unexpired leases that are to be rejected pursuant to the Plan. Pursuant to Exhibit 8.1(a) and the Plan, all of the Leases were assumed by the Debtors.

15. On January 25, 2008, this Court approved the Plan by entering its Findings of Fact, Conclusions of Law, and Order Under 11 U.S.C. §§ 1129(a) and (b) and Fed. R. Bankr. P. 3020 Confirming First Amended Joint Plan of Reorganization of Delphi Corporation and Certain Affiliates, Debtors and Debtors-in-Possession, as Modified (the "Confirmation Order").

16. Pursuant to the Plan and the Confirmation Order, in the event that a non-Debtor party wishes to assert an entitlement to Cure, such party must serve and file a Cure Claim within forty-five (45) days after entry of the Confirmation Order, after which the Debtors shall have

forty-five (45) days to file an objection to the Cure Claim. Accordingly, ATEL submits this Cure Claim in satisfaction of such requirements under the Plan and Confirmation Order.

CURE CLAIM

17. Under section 365(b)(1) of the Bankruptcy Code, prior to the Debtors' assumption of the Leases, the Debtors must cure all outstanding defaults due thereunder. Pursuant to the terms of the Leases, the Debtors are in default under the Leases based upon their failure, *inter alia*, to pay pre-petition and post-petition rent, taxes and/or other obligations due under the Leases.

18. As set forth in the Claims Stipulation, the allowed unsecured pre-petition Claim under the Leases is \$191,055.40. In addition, as of February 29, 2008, the total amount due and owing post-petition under the Leases is \$470,637.93 plus additional outstanding sales and property taxes. See Exhibit B for a breakdown of the total post-petition amounts due and owing under the Leases.

19. Moreover, the Leases provide in pertinent part, that upon a declaration of default, and to the extent permitted by law, the debtor shall pay "all reasonable costs and expenses, including reasonable legal fees incurred by the Lessor in connection with the enforcement of, but not the administration of, the Agreement." See the Leases at Section XII(a). As of the date of this Cure Claim and subject to continued accrual, ATEL has incurred the aggregate amount of \$46,585.00 in legal fees and the aggregate amount of \$2,603.54 in expenses.

20. There will also be certain taxes or other adjustments that have yet to be billed or become due under the Leases, but ATEL is unable at this time to provide those amounts. Accordingly, the Cure Amount listed below is subject to change, and ATEL reserves the right to modify the Cure Amount accordingly.

21. As of the date hereof and subject to continued accrual, ATEL asserts that the total *cure* amount under the Leases is approximately \$710,881.87 (the "Cure Amount"). However, to the extent that rent, attorneys' fees, taxes and any other charges continue to accrue or become due and/or ATEL suffers other liabilities and/or losses under the Leases, ATEL hereby reserves its right to amend and/or supplement the Cure Amount to reflect such additional amounts.

Dated: New York, New York
March 5, 2008

BUCHANAN INGERSOLL & ROONEY LLP
*Attorneys for ATEL Leasing Corporation,
as agent for Eireann II, CAI-UBK Equipment,
CAI-ALJ Equipment, II BU de Mexico
S.A. de C.V. and Eireann III*

By: /s/ Susan P. Persichilli
Susan P. Persichilli, Esq. (SPP-0368)
One Chase Manhattan Plaza
New York, New York 10005
(212) 440-4400

EXHIBIT A

ATEL LEASING CORPORATION'S PROOF OF CLAIM

Penalty for presenting fraudulent claim: Fine up to \$500,000 or imprisonment for up to 5 years, or both. 18 U.S.C. § 152 and 3571.

(b) Pursuant to one or more assignments, Debtor was assigned GMC's interests as Lessee under the Leases. Pursuant to various other assignments, the interests of AFG and FACMGI as the Lessors under their respective Leases have been assigned to either; 1) Eireann II, a division of ATEL Transatlantic Investors, Inc., 2) CAI-UBK Equipment, a division of ATI, 3) CAI-ALJ Equipment, a division of ATI, 4) II Bu de Mexico S.A. de C.V., a Mexican company, or 5) Eireann III, a division of ATEL Transatlantic Investors II, Inc., a California corporation, with ATEL acting as agent for each of the same.

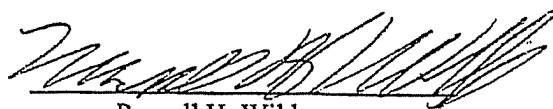
4. Pursuant to Section XII (4) of the Leases, the Debtor is responsible for liquidated damages in the approximate amount of \$4,140,179.97, plus interest thereon, from the date of default, at the rate as stated in Section XXI (e) of the Leases. This Claim is not subject to any setoff or counterclaim, other than amounts paid to the Secured Party pursuant to its Proof of Claim, which has been or may be separately filed.

5. This Claim is a general unsecured and administrative claim for breach of contract under the Leases. In the alternative, Creditor claims that it is a secured creditor pursuant to the Lease and the precautionary Uniform Commercial Code Financing Statements filed in connection therewith. The Creditor also claims any post petition rents or other amounts not previously made in accordance with the Leases.

6. The Claims asserted herein are made without prejudice to the Creditor's right to amend this Proof of Claim and the Creditor hereby reserves its right to amend this Proof of Claim and to assert an additional administrative claim at some future date, including, without limitation, interest on post-petition late payments, indemnification amounts and costs and expenses incurred in enforcing Creditor's rights under the Leases and the other Agreements. ATEL reserves all of its rights against the Debtor and all other entities. The execution or filing of this Proof of Claim shall not be deemed a waiver of any rights of ATEL to trial by jury or otherwise, nor a consent to jurisdiction of the Bankruptcy Court with respect to any counterclaim or any other claim against ATEL by Debtor or any other person or entity.

Dated: July 27, 2006

ATEL Leasing Corporation
As Agent for Creditor



Russell H. Wilder
Title: Senior Vice President

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re:

Delphi Corporation, et al
Delphi Automotive Systems LLC

Debtor.

)
)
) Case Nos. 05-44481 (RDD)
) and 05-44640
) Chapter 11
)
)

RIDER TO PROOF OF CLAIM

1. The undersigned, Russell H. Wilder, serves as Senior Vice President for ATEL Leasing Corporation ("ATEL") a corporation organized under the laws of the State of California, with executive offices at 600 California Street, 6th floor, San Francisco, California 94108, and is authorized to make this Proof of Claim on behalf of: 1) Eireann II, a division of ATEL Transatlantic Investors, Inc. (ATEL Transatlantic Investors, Inc. is a corporation formed under the laws of the State of California and is hereinafter referred to as "ATT"), 2) CAI-UBK Equipment, a division of ATI, 3) CAI-ALJ Equipment, a division of ATI, 4) II Bu de Mexico S.A. de C.V., a Mexican company, ("CAI-Mexico"), and 5) Eireann III, a division of ATEL Transatlantic Investors II, Inc., a California corporation ("ATI IP"), each of ATEL, ATI, ATI II and CAI-Mexico having an office at 600 California Street, 6th floor, San Francisco, California 94108 ("Creditor").

2. Delphi Corporation, et al ("Debtor") as lessee, is indebted to ATEL under the Agreements (as defined below) in an unliquidated amount (the "Claim").

3. The consideration for the Claim, and basis for Debtor's liability, is as follows:

(a) Pursuant to a Master Lease dated as of August 19, 1997, Debtor's former owner, General Motors Corporation ("GMC"), entered into a Master Lease Agreement ("MLA-AFG") with American Finance Group, Inc. ("AFG"). Pursuant to a Master Lease Agreement dated as of May 1, 1995, Debtor's former owner, GMC entered into a Master Lease Agreement ("MLA-FACMGI") with First American Capital Management Group, Inc. ("FACMGI"). Pursuant to the two Master Lease Agreements MLA-AFG and MLA-FACMGI, GMC entered into numerous Equipment Schedules (the Equipment Schedules, as they incorporate by reference all of the terms and conditions of the two Master Lease Agreements described herein, are hereinafter known as the "Leases"), regarding certain equipment, all with related equipment, attachments and accessories as set forth in the Leases (the "Equipment").

BREAKDOWN OF THE TOTAL POST-PETITION AMOUNTS DUE
AND OWING UNDER THE LEASES

EXHIBIT B

[illegible]

Pre-petition cut-off date	10/8/2005			
Post-petition cut-off date	2/28/2008			
Delinq Date	# Days Late	# Months Late (round to month)	Late fee rate	Total late fee
11/9/05	841	29	1%	125.72
11/9/05	841	29	1%	838.13
11/9/05	841	29	1%	424.95
11/9/05	841	29	1%	2,832.96
11/9/05	841	29	1%	28.46
11/9/05	841	29	1%	189.71
11/10/05	840	28	1%	94.78
12/10/05	810	27	1%	91.39
12/10/05	810	27	1%	117.05
12/10/05	810	27	1%	395.64
12/10/05	810	27	1%	2,637.58
12/10/05	810	27	1%	26.50
12/10/05	810	27	1%	176.63
12/18/05	802	27	1%	107.40
1/9/06	780	26	1%	112.72
1/9/06	780	26	1%	380.99
1/9/06	780	26	1%	2,539.90
1/9/06	780	26	1%	25.51
1/10/06	779	26	1%	170.08
2/9/06	749	25	1%	88.01
2/9/06	749	25	1%	108.38
2/9/06	749	25	1%	366.34
2/9/06	749	25	1%	2,442.21
2/9/06	749	25	1%	24.53
2/10/06	748	25	1%	163.54
3/10/06	720	24	1%	84.62
3/10/06	720	24	1%	81.24
3/10/06	720	24	1%	104.05
3/10/06	720	24	1%	351.68
3/10/06	720	24	1%	234.452
3/10/06	720	24	1%	23.55
4/9/06	690	23	1%	99.71
4/9/06	690	23	1%	87.75
4/9/06	690	23	1%	337.03
4/9/06	690	23	1%	2,246.83
4/9/06	690	23	1%	22.57
4/9/06	690	23	1%	150.46
4/10/06	689	23	1%	77.85
5/10/06	650	22	1%	107.40

Customer	Acct #	Lease #	Invoice #	InvDate Due Date	InvAmt	Amount Due	30Days	60Days	90Days	120Days	Over120Days	Transaction	Lease Reference	Grace Days
GENERAL MOTORS CORPORATION	87001	87GMC012341118	870000448	3/6/06	433.33	433.33	-	-	-	-	-	433.53 Sales Tax	592595-001 DI	10
GENERAL MOTORS CORPORATION	87001	87GMC012341118	870000448	3/6/06	433.33	381.32	-	-	-	-	-	381.52 Rent	592595-001 DI	10
GENERAL MOTORS CORPORATION	87001	87GMC012341134	870000449	3/6/06	433.33	1,465.35	-	-	-	-	-	1,465.35 Sales Tax	592612-001 DI	10
GENERAL MOTORS CORPORATION	87001	87GMC012341134	870000449	3/6/06	433.33	9,768.83	-	-	-	-	-	9,768.83 Rent	592612-001 DI	10
GENERAL MOTORS CORPORATION	87001	87GMC012341135	870000450	3/6/06	433.33	98.13	-	-	-	-	-	98.13 Sales Tax	592613-001 DI	10
GENERAL MOTORS CORPORATION	87001	87GMC012341135	870000450	3/6/06	433.33	654.17	-	-	-	-	-	654.17 Rent	592613-001 DI	10
GENERAL MOTORS CORPORATION	87001	87GMC012341118	870000452	3/29/06	530.06	433.53	-	-	-	-	-	433.53 Sales Tax	592595-001 DI	10
GENERAL MOTORS CORPORATION	87001	87GMC012341118	870000452	3/29/06	530.06	381.52	-	-	-	-	-	381.52 Rent	592595-001 DI	10
GENERAL MOTORS CORPORATION	87001	87GMC012341134	870000453	3/29/06	530.06	1,465.35	-	-	-	-	-	1,465.35 Sales Tax	592612-001 DI	10
GENERAL MOTORS CORPORATION	87001	87GMC012341134	870000453	3/29/06	530.06	9,768.83	-	-	-	-	-	9,768.83 Rent	592612-001 DI	10
GENERAL MOTORS CORPORATION	87001	87GMC012341135	870000454	3/29/06	530.06	654.17	-	-	-	-	-	654.17 Sales Tax	592613-001 DI	10
GENERAL MOTORS CORPORATION	87001	87GMC012341135	870000454	3/29/06	530.06	338.49	-	-	-	-	-	338.49 Rent	592613-001 DI	10
GENERAL MOTORS CORPORATION	87001	87GMC012341135	870000456	4/27/06	630.06	1,710.8	-	-	-	-	-	1,710.8 Sales Tax	592595-001 DI	10
GENERAL MOTORS CORPORATION	87001	87GMC012341118	870000457	4/27/06	630.06	1,263.23	-	-	-	-	-	1,263.23 Sales Tax	592612-001 DI	10
GENERAL MOTORS CORPORATION	87001	87GMC012341134	870000457	4/27/06	630.06	8,421.39	-	-	-	-	-	8,421.39 Rent	592613-001 DI	10
GENERAL MOTORS CORPORATION	87001	87GMC012341135	870000458	4/27/06	630.06	98.13	-	-	-	-	-	98.13 Sales Tax	592613-001 DI	10
GENERAL MOTORS CORPORATION	87001	87GMC012341135	870000460	6/12/06	730.06	1,263.23	-	-	-	-	-	1,263.23 Sales Tax	592612-001 DI	10
GENERAL MOTORS CORPORATION	87001	87GMC012341134	870000460	6/12/06	730.06	8,421.39	-	-	-	-	-	8,421.39 Rent	592613-001 DI	10
GENERAL MOTORS CORPORATION	87001	87GMC012341135	870000461	6/12/06	730.06	98.13	-	-	-	-	-	98.13 Sales Tax	592613-001 DI	10
GENERAL MOTORS CORPORATION	87001	87GMC012341135	870000461	6/12/06	730.06	654.17	-	-	-	-	-	654.17 Rent	592613-001 DI	10
GENERAL MOTORS CORPORATION	87001	87GMC012341118	870000462	6/28/06	830.06	433.53	-	-	-	-	-	433.53 Sales Tax	592595-001 DI	10
GENERAL MOTORS CORPORATION	87001	87GMC012341118	870000462	6/28/06	830.06	1,669.34	-	-	-	-	-	1,669.34 Rent	592595-001 DI	10
GENERAL MOTORS CORPORATION	87001	87GMC012341134	870000463	6/28/06	830.06	1,263.23	-	-	-	-	-	1,263.23 Sales Tax	592612-001 DI	10
GENERAL MOTORS CORPORATION	87001	87GMC012341134	870000463	6/28/06	830.06	8,421.39	-	-	-	-	-	8,421.39 Rent	592613-001 DI	10
GENERAL MOTORS CORPORATION	87001	87GMC012341135	870000464	6/28/06	830.06	98.13	-	-	-	-	-	98.13 Sales Tax	592613-001 DI	10
GENERAL MOTORS CORPORATION	87001	87GMC012341135	870000464	6/28/06	830.06	654.17	-	-	-	-	-	654.17 Rent	592613-001 DI	10
GENERAL MOTORS CORPORATION	87001	87GMC012341118	870000465	7/26/06	930.06	2,890.10	-	-	-	-	-	2,890.10 Sales Tax	592595-001 DI	10
GENERAL MOTORS CORPORATION	87001	87GMC012341118	870000465	7/26/06	930.06	433.53	-	-	-	-	-	433.53 Sales Tax	592595-001 DI	10
GENERAL MOTORS CORPORATION	87001	87GMC012341134	870000466	7/26/06	930.06	1,263.23	-	-	-	-	-	1,263.23 Sales Tax	592612-001 DI	10
GENERAL MOTORS CORPORATION	87001	87GMC012341134	870000466	7/26/06	930.06	8,421.39	-	-	-	-	-	8,421.39 Rent	592613-001 DI	10
GENERAL MOTORS CORPORATION	87001	87GMC012341135	870000467	7/26/06	930.06	98.13	-	-	-	-	-	98.13 Sales Tax	592613-001 DI	10
GENERAL MOTORS CORPORATION	87001	87GMC012341135	870000467	7/26/06	930.06	654.17	-	-	-	-	-	654.17 Rent	592613-001 DI	10
GENERAL MOTORS CORPORATION	87001	87GMC012341118	870000468	8/28/06	1030.06	433.53	-	-	-	-	-	433.53 Sales Tax	592595-001 DI	10
GENERAL MOTORS CORPORATION	87001	87GMC012341118	870000468	8/28/06	1030.06	2,890.10	-	-	-	-	-	2,890.10 Sales Tax	592595-001 DI	10
GENERAL MOTORS CORPORATION	87001	87GMC012341134	870000469	8/28/06	1030.06	1,263.23	-	-	-	-	-	1,263.23 Sales Tax	592612-001 DI	10
GENERAL MOTORS CORPORATION	87001	87GMC012341134	870000469	8/28/06	1030.06	8,421.39	-	-	-	-	-	8,421.39 Rent	592613-001 DI	10
GENERAL MOTORS CORPORATION	87001	87GMC012341135	870000470	8/28/06	1030.06	98.13	-	-	-	-	-	98.13 Sales Tax	592613-001 DI	10
GENERAL MOTORS CORPORATION	87001	87GMC012341135	870000470	8/28/06	1030.06	654.17	-	-	-	-	-	654.17 Rent	592613-001 DI	10

Delinq Date	# Days Late	# Months Late (round to month)	Late fee rate	Total late fee
5/1/06	659	22	1%	95.38
5/1/06	659	22	1%	83.93
5/1/06	659	22	1%	322.38
5/1/06	659	22	1%	2,149.14
5/1/06	659	22	1%	143.92
6/9/06	629	21	1%	91.04
6/9/06	629	21	1%	80.12
6/9/06	629	21	1%	307.72
6/9/06	629	21	1%	2,051.45
6/9/06	629	21	1%	20.61
6/10/06	628	21	1%	137.38
7/1/06	598	20	1%	71.08
7/1/06	598	20	1%	67.70
7/1/06	598	20	1%	34.22
7/1/06	598	20	1%	257.65
7/1/06	598	20	1%	1,684.28
7/1/06	598	20	1%	19.63
8/9/06	568	19	1%	130.83
8/9/06	568	19	1%	240.01
8/9/06	568	19	1%	1,600.06
8/9/06	568	19	1%	18.64
8/10/06	567	19	1%	124.29
8/10/06	567	19	1%	64.31
9/9/06	537	18	1%	78.04
9/9/06	537	18	1%	300.48
9/9/06	537	18	1%	227.38
9/9/06	537	18	1%	1,515.85
9/9/06	537	18	1%	17.66
9/10/06	536	18	1%	117.75
10/10/06	506	17	1%	60.93
10/10/06	506	17	1%	57.54
10/10/06	506	17	1%	491.32
10/10/06	506	17	1%	214.75
10/10/06	506	17	1%	1,431.64
10/10/06	506	17	1%	16.68
11/9/06	476	16	1%	111.21
11/9/06	476	16	1%	69.36
11/9/06	476	16	1%	462.42
11/9/06	476	16	1%	202.12
11/9/06	476	16	1%	1,347.42
11/9/06	476	16	1%	15.70
11/9/06	476	16	1%	104.67

Customer	Acct #	Lease #	Invoice #	InvDate	Due Date	InvAmt	Amount Due	30Days	60Days	90Days	120Days	Over 120Days	Transaction	Lease Reference	Grace Days
GENERAL MOTORS-POWERTRAIN	7500675GMC0081601		750008154	8/28/06	10/31/06	338.49	338.49	-	-	-	-	-	338.49 Rent	592060-001-DI	10
GENERAL MOTORS-POWERTRAIN	7500675GMC0081601		750008202	11/26/06	11/20/06	230.38	230.38	-	-	-	-	-	230.38 Property Tax	592059-001-DI	10
GENERAL MOTORS-POWERTRAIN	7500675GMC0081601		750008202	11/26/06	11/20/06	115.19	115.19	-	-	-	-	-	115.19 Property Tax	592059-001-DI	10
GENERAL MOTORS-POWERTRAIN	7500675GMC0081601		750008178	9/26/06	11/30/06	338.49	338.49	-	-	-	-	-	338.49 Rent	592060-001-DI	10
GENERAL MOTORS-POWERTRAIN	7500675GMC0081601		750008178	9/26/06	11/30/06	433.53	433.53	-	-	-	-	-	433.53 Sales Tax	592595-001-DI	10
GENERAL MOTORS CORPORATION	8700187GMC012341118		870000471	9/26/06	11/30/06	2,890.10	2,890.10	-	-	-	-	-	2,890.10 Rent	592595-001-DI	10
GENERAL MOTORS CORPORATION	8700187GMC012341118		870000472	9/26/06	11/30/06	1,263.23	1,263.23	-	-	-	-	-	1,263.23 Sales Tax	592595-001-DI	10
GENERAL MOTORS CORPORATION	8700187GMC012341118		870000472	9/26/06	11/30/06	842.139	842.139	-	-	-	-	-	842.139 Rent	592612-001-DI	10
GENERAL MOTORS CORPORATION	8700187GMC012341118		870000473	9/26/06	11/30/06	98.13	98.13	-	-	-	-	-	98.13 Sales Tax	592613-001-DI	10
GENERAL MOTORS CORPORATION	8700187GMC012341118		870000474	10/31/06	12/30/06	433.53	433.53	-	-	-	-	-	433.53 Sales Tax	592595-001-DI	10
GENERAL MOTORS CORPORATION	8700187GMC012341118		870000474	10/31/06	12/30/06	2,890.10	2,890.10	-	-	-	-	-	2,890.10 Rent	592595-001-DI	10
GENERAL MOTORS CORPORATION	8700187GMC012341118		870000475	10/31/06	12/30/06	1,263.23	1,263.23	-	-	-	-	-	1,263.23 Sales Tax	592612-001-DI	10
GENERAL MOTORS CORPORATION	8700187GMC012341118		870000475	10/31/06	12/30/06	98.13	98.13	-	-	-	-	-	98.13 Sales Tax	592613-001-DI	10
GENERAL MOTORS CORPORATION	8700187GMC012341118		870000476	10/31/06	12/30/06	654.17	654.17	-	-	-	-	-	654.17 Rent	592613-001-DI	10
GENERAL MOTORS-POWERTRAIN	7500675GMC0081601		750008225	10/1/06	12/31/06	338.49	338.49	-	-	-	-	-	338.49 Rent	592060-001-DI	10
GENERAL MOTORS-POWERTRAIN	7500675GMC0081601		750008225	10/1/06	12/31/06	433.53	433.53	-	-	-	-	-	433.53 Sales Tax	592595-001-DI	10
GENERAL MOTORS CORPORATION	8700187GMC012341118		870000477	11/29/06	1/30/07	2,890.10	2,890.10	-	-	-	-	-	2,890.10 Rent	592595-001-DI	10
GENERAL MOTORS CORPORATION	8700187GMC012341118		870000478	11/29/06	1/30/07	1,263.23	1,263.23	-	-	-	-	-	1,263.23 Sales Tax	592612-001-DI	10
GENERAL MOTORS CORPORATION	8700187GMC012341118		870000478	11/29/06	1/30/07	98.13	98.13	-	-	-	-	-	98.13 Sales Tax	592613-001-DI	10
GENERAL MOTORS CORPORATION	8700187GMC012341118		870000479	11/29/06	1/30/07	654.17	654.17	-	-	-	-	-	654.17 Rent	592613-001-DI	10
GENERAL MOTORS-POWERTRAIN	7500675GMC0081601		750008246	12/1/06	1/31/07	338.49	338.49	-	-	-	-	-	338.49 Rent	592060-001-DI	10
GENERAL MOTORS-POWERTRAIN	7500675GMC0081601		750008246	12/1/06	1/31/07	164.51	164.51	-	-	-	-	-	164.51 Property Tax	592060-001-DI	10
GENERAL MOTORS-POWERTRAIN	7500675GMC0081601		750008256	12/28/06	2/28/07	338.49	338.49	-	-	-	-	-	338.49 Rent	592060-001-DI	10
GENERAL MOTORS CORPORATION	8700187GMC012341118		870000480	12/28/06	2/28/07	433.53	433.53	-	-	-	-	-	433.53 Sales Tax	592595-001-DI	10
GENERAL MOTORS CORPORATION	8700187GMC012341118		870000480	12/28/06	2/28/07	2,787.80	2,787.80	-	-	-	-	-	2,787.80 Rent	592595-001-DI	10
GENERAL MOTORS CORPORATION	8700187GMC012341118		870000481	12/28/06	2/28/07	1,263.23	1,263.23	-	-	-	-	-	1,263.23 Sales Tax	592612-001-DI	10
GENERAL MOTORS CORPORATION	8700187GMC012341118		870000481	12/28/06	2/28/07	98.13	98.13	-	-	-	-	-	98.13 Sales Tax	592613-001-DI	10
GENERAL MOTORS CORPORATION	8700187GMC012341118		870000482	12/28/06	2/28/07	654.17	654.17	-	-	-	-	-	654.17 Rent	592613-001-DI	10
DELPHI CORPORATION	6800968DEL P0A-2R2		680010224	3/14/07	3/19/07	1,567.71	1,567.71	-	-	-	-	-	1,567.71 Property Tax	DELPHENA-2	10
DELPHI CORPORATION	6800968DEL P0A-2R2		680010225	3/14/07	3/19/07	403.05	403.05	-	-	-	-	-	403.05 Property Tax	DELPHENA-1	10
DELPHI CORPORATION	6800968DEL P0A-3R1		680010225	3/14/07	3/19/07	8,101.10	6,119.17	-	-	-	-	-	6,119.17 Property Tax	DELPHENA-1	10
DELPHI CORPORATION	6800968DEL P0A-4R3		680010226	3/14/07	3/19/07	252.53	252.53	-	-	-	-	-	252.53 Property Tax	DELPHENA-4	10
DELPHI CORPORATION	6800968DEL P0A-4R3		680010226	3/14/07	3/19/07	5,050.65	3,815.01	-	-	-	-	-	3,815.01 Property Tax	DELPHENA-4	10
DELPHI CORPORATION	6800968DEL P0A-5R3		680010227	3/14/07	3/19/07	401.69	401.69	-	-	-	-	-	401.69 Property Tax	DELPHENA-5	10
DELPHI CORPORATION	6800968DEL P0A-5R3		680010227	3/14/07	3/19/07	8,033.75	6,068.29	-	-	-	-	-	6,068.29 Property Tax	DELPHENA-5	10
GENERAL MOTORS CORPORATION	8700187GMC012341118		870000483	1/31/07	3/30/07	433.53	433.53	-	-	-	-	-	433.53 Sales Tax	592595-001-DI	10
GENERAL MOTORS CORPORATION	8700187GMC012341118		870000483	1/31/07	3/30/07	2,787.80	2,787.80	-	-	-	-	-	2,787.80 Rent	592595-001-DI	10
GENERAL MOTORS CORPORATION	8700187GMC012341118		870000484	1/31/07	3/30/07	1,263.23	1,263.23	-	-	-	-	-	1,263.23 Sales Tax	592612-001-DI	10
GENERAL MOTORS CORPORATION	8700187GMC012341118		870000484	1/31/07	3/30/07	842.139	842.139	-	-	-	-	-	842.139 Rent	592612-001-DI	10

Billing Date	# Days Late	# Months Late (round to month)	Late fee rate	Total late fee
11/10/06	475	16	1%	54.16
11/20/06	455	16	1%	36.86
11/30/06	455	16	1%	18.43
12/10/06	445	15	1%	50.77
12/10/06	445	15	1%	65.03
12/10/06	445	15	1%	433.52
12/10/06	445	15	1%	189.48
12/10/06	445	15	1%	1,263.21
12/10/06	445	15	1%	14.72
12/10/06	445	15	1%	98.13
12/10/06	445	15	1%	60.69
12/10/06	445	15	1%	404.61
12/10/06	445	15	1%	1,176.85
12/10/06	445	15	1%	13.74
12/10/06	445	15	1%	91.58
12/10/06	445	15	1%	47.39
12/10/06	445	15	1%	56.36
12/10/06	445	15	1%	375.71
12/10/06	445	15	1%	164.22
12/10/06	445	15	1%	1,094.78
12/10/06	445	15	1%	12.76
12/10/06	445	15	1%	85.04
12/10/06	445	15	1%	44.00
12/10/06	445	15	1%	21.39
12/10/06	445	15	1%	40.62
12/10/06	445	15	1%	52.08
12/10/06	445	15	1%	334.54
12/10/06	445	15	1%	1,010.57
12/10/06	445	15	1%	11.78
12/10/06	445	15	1%	78.50
12/10/06	445	15	1%	188.13
12/10/06	445	15	1%	2,842.00
12/10/06	445	15	1%	734.30
12/10/06	445	15	1%	30.30
12/10/06	445	15	1%	457.80
12/10/06	445	15	1%	48.20
12/10/06	445	15	1%	728.19
12/10/06	445	15	1%	47.69
12/10/06	445	15	1%	306.66
12/10/06	445	15	1%	138.96
12/10/06	445	15	1%	926.35

Customer	Acct #	Lease #	Invoice #	InvDate	Due Date	InvAmt	Amount Due	30Days	60Days	90Days	120Days	Over120Days	Transaction	Lease Reference	Grace Days
GENERAL MOTORS CORPORATION	87001 87GMC012341135	870000485	1/31/07	3/30/07	98.13	98.13	-	-	-	-	-	98.13	Sales Tax	592613-001 DI	10
GENERAL MOTORS CORPORATION	87001 87GMC012341135	870000485	1/31/07	3/30/07	654.17	654.17	-	-	-	-	-	654.17	Rent	592613-001 DI	10
GENERAL MOTORS-POWERTRAIN	70019 70GMC0048602R2	700014905	1/31/07	3/31/07	1,870.00	1,883.01	-	-	-	-	-	1,883.01	Rent	592613-002 DI	10
GENERAL MOTORS-POWERTRAIN	75006 75GMC0081601	750008304	1/31/07	3/31/07	338.49	338.49	-	-	-	-	-	338.49	Rent	592060-001 DI	10
GENERAL MOTORS-POWERTRAIN	70019 70GMC0048602R2	700014933	3/26/07	4/16/07	661.29	661.29	-	-	-	-	-	661.29	Property Tax	590583-002 DI	10
GENERAL MOTORS-POWERTRAIN	70019 70GMC0048602R2	700014916	2/21/07	4/30/07	1,870.00	1,870.00	-	-	-	-	-	1,870.00	Rent	592613-001 DI	10
GENERAL MOTORS-POWERTRAIN	75006 75GMC0081601	750008325	2/21/07	4/30/07	338.49	338.49	-	-	-	-	-	338.49	Rent	592060-001 DI	10
GENERAL MOTORS CORPORATION	87001 87GMC012341118	870000486	2/21/07	4/30/07	433.53	433.53	-	-	-	-	-	433.53	Sales Tax	592595-001 DI	10
GENERAL MOTORS CORPORATION	87001 87GMC012341118	870000486	2/21/07	4/30/07	2,194.12	2,194.12	-	-	-	-	-	2,194.12	Rent	592595-001 DI	10
GENERAL MOTORS CORPORATION	87001 87GMC012341134	870000487	2/21/07	4/30/07	1,263.23	1,263.23	-	-	-	-	-	1,263.23	Sales Tax	592612-001 DI	10
GENERAL MOTORS CORPORATION	87001 87GMC012341134	870000488	2/21/07	4/30/07	98.13	98.13	-	-	-	-	-	98.13	Rent	592612-001 DI	10
GENERAL MOTORS-POWERTRAIN	75006 75GMC0081501	750008339	1/5/07	5/30/07	577.87	577.87	-	-	-	-	-	577.87	Rent	592059-001 DI	10
GENERAL MOTORS CORPORATION	87001 87GMC012341118	870000489	3/15/07	5/30/07	433.53	433.53	-	-	-	-	-	433.53	Sales Tax	592595-001 DI	10
GENERAL MOTORS CORPORATION	87001 87GMC012341118	870000490	3/15/07	5/30/07	2,194.12	2,194.12	-	-	-	-	-	2,194.12	Rent	592595-001 DI	10
GENERAL MOTORS CORPORATION	87001 87GMC012341134	870000490	3/15/07	5/30/07	1,263.23	1,263.23	-	-	-	-	-	1,263.23	Sales Tax	592612-001 DI	10
GENERAL MOTORS CORPORATION	87001 87GMC012341134	870000491	3/15/07	5/30/07	98.13	98.13	-	-	-	-	-	98.13	Rent	592612-001 DI	10
GENERAL MOTORS-POWERTRAIN	75006 75GMC0081601	750008350	3/15/07	5/31/07	338.49	338.49	-	-	-	-	-	338.49	Rent	592060-001 DI	10
GENERAL MOTORS-POWERTRAIN	75006 75GMC0081501	750008381	4/17/07	6/30/07	577.87	577.87	-	-	-	-	-	577.87	Rent	592059-001 DI	10
GENERAL MOTORS-POWERTRAIN	75006 75GMC0081601	750008383	4/17/07	6/30/07	338.49	338.49	-	-	-	-	-	338.49	Rent	592060-001 DI	10
GENERAL MOTORS CORPORATION	87001 87GMC012341118	870000492	4/17/07	6/30/07	433.53	433.53	-	-	-	-	-	433.53	Sales Tax	592595-001 DI	10
GENERAL MOTORS CORPORATION	87001 87GMC012341118	870000492	4/17/07	6/30/07	1,669.34	1,669.34	-	-	-	-	-	1,669.34	Rent	592595-001 DI	10
GENERAL MOTORS CORPORATION	87001 87GMC012341134	870000493	4/17/07	6/30/07	1,263.23	1,263.23	-	-	-	-	-	1,263.23	Sales Tax	592612-001 DI	10
GENERAL MOTORS CORPORATION	87001 87GMC012341135	870000494	4/17/07	6/30/07	98.13	98.13	-	-	-	-	-	98.13	Rent	592612-001 DI	10
GENERAL MOTORS-POWERTRAIN	75006 75GMC0081601	750008402	5/17/07	7/30/07	802.42	802.42	-	-	-	-	-	802.42	Rent	592032-002 DI	10
GENERAL MOTORS CORPORATION	87001 87GMC012341118	870000495	5/17/07	7/30/07	433.53	433.53	-	-	-	-	-	433.53	Sales Tax	592595-001 DI	10
GENERAL MOTORS CORPORATION	87001 87GMC012341134	870000496	5/17/07	7/30/07	1,669.34	1,669.34	-	-	-	-	-	1,669.34	Rent	592595-001 DI	10
GENERAL MOTORS CORPORATION	87001 87GMC012341134	870000496	5/17/07	7/30/07	656.89	656.89	-	-	-	-	-	656.89	Sales Tax	592612-001 DI	10
GENERAL MOTORS CORPORATION	87001 87GMC012341135	870000497	5/17/07	7/30/07	98.13	98.13	-	-	-	-	-	98.13	Rent	592612-001 DI	10
GENERAL MOTORS-POWERTRAIN	75006 75GMC0078803	750008409	5/17/07	7/31/07	632.08	632.08	-	-	-	-	-	632.08	Rent	592032-003 DI	10
GENERAL MOTORS-POWERTRAIN	75006 75GMC0078822	750008410	5/17/07	7/31/07	1,234.49	1,234.49	-	-	-	-	-	1,234.49	Rent	592032-002 DI	10
GENERAL MOTORS-POWERTRAIN	75006 75GMC0081601	750008411	7/31/07	7/31/07	338.49	338.49	-	-	-	-	-	338.49	Rent	592060-001 DI	10
GENERAL MOTORS-POWERTRAIN	70019 70GMC0048602R2	700015001	7/24/07	8/7/07	1,762.36	1,762.36	-	-	-	-	-	1,762.36	Property Tax	590583-002 DI	10
GENERAL MOTORS-POWERTRAIN	75006 75GMC0081501	750008423	6/22/07	8/30/07	802.42	802.42	-	-	-	-	-	802.42	Rent	592032-002 DI	10
GENERAL MOTORS-POWERTRAIN	75006 75GMC0081501	750008424	6/22/07	8/30/07	577.87	577.87	-	-	-	-	-	577.87	Rent	592032-001 DI	10
GENERAL MOTORS-POWERTRAIN	75006 75GMC0081501	750008425	6/22/07	8/30/07	2,752.34	2,752.34	-	-	-	-	-	2,752.34	Rent	592032-001 DI	10

Delinq Date	# Days Late	# Months Late (round to months)	Late fee rate	Total late fee
4/9/07	325	11	1%	10.79
4/9/07	325	11	1%	71.96
4/10/07	324	11	1%	185.13
4/10/07	324	11	1%	37.23
4/28/07	308	11	1%	72.74
5/10/07	294	10	1%	187.00
5/10/07	294	10	1%	33.85
5/10/07	294	10	1%	43.35
5/10/07	294	10	1%	219.41
5/10/07	294	10	1%	126.32
5/10/07	294	10	1%	842.14
5/10/07	294	10	1%	9.81
5/10/07	294	10	1%	65.42
6/9/07	264	9	1%	9.10
6/9/07	264	9	1%	39.02
6/9/07	264	9	1%	197.47
6/9/07	264	9	1%	113.69
6/9/07	264	9	1%	757.93
6/9/07	264	9	1%	8.83
6/9/07	264	9	1%	58.88
6/10/07	263	9	1%	30.46
7/10/07	233	8	1%	23.12
7/10/07	233	8	1%	27.08
7/10/07	233	8	1%	34.68
7/10/07	233	8	1%	41.98
7/10/07	233	8	1%	101.06
7/10/07	233	8	1%	673.71
7/10/07	233	8	1%	7.85
7/10/07	233	8	1%	32.35
7/10/07	203	7	1%	41.73
8/9/07	203	7	1%	30.35
8/9/07	203	7	1%	40.45
8/9/07	203	7	1%	36.73
8/9/07	203	7	1%	24.76
8/9/07	203	7	1%	165.06
8/9/07	203	7	1%	6.87
8/10/07	202	7	1%	45.79
8/10/07	202	7	1%	44.25
8/10/07	202	7	1%	41.99
8/10/07	202	7	1%	23.69
8/17/07	195	7	1%	123.37
9/9/07	172	6	1%	35.77
9/9/07	172	6	1%	34.67
9/9/07	172	6	1%	153.87

Customer	Acct #	Lease #	Invoice #	InvDate	Due Date	InvAmt	Amount Due	30Days	60Days	90Days	120Days	Overl 20Days	Transaction	Lease Reference	Grace Days
GENERAL MOTORS CORPORATION	87001 87GMC012341118	870000498	6/22/07	8/30/07	433.53	433.53	-	-	-	-	-	-	433.53 Sales Tax	592595-001 DI	10
GENERAL MOTORS CORPORATION	87001 87GMC012341118	870000498	6/22/07	8/30/07	524.78	524.78	-	-	-	-	-	-	524.78 Rent	592595-001 DI	10
GENERAL MOTORS CORPORATION	87001 87GMC012341134	870000499	6/22/07	8/30/07	555.83	555.83	-	-	-	-	-	-	303.18 Sales Tax	592612-001 DI	10
GENERAL MOTORS CORPORATION	87001 87GMC012341134	870000499	6/22/07	8/30/07	795.46	2,021.16	-	-	-	-	-	-	2,021.16 Rent	592612-001 DI	10
GENERAL MOTORS CORPORATION	87001 87GMC012341135	870000500	6/22/07	8/30/07	98.13	98.13	-	-	-	-	-	-	98.13 Sales Tax	592613-001 DI	10
GENERAL MOTORS CORPORATION	87001 87GMC012341135	870000500	6/22/07	8/30/07	654.17	654.17	-	-	-	-	-	-	654.17 Rent	592613-001 DI	10
GENERAL MOTORS-POWERTRAIN	75006 75GMC0078822	750008431	6/22/07	8/31/07	632.08	632.08	-	-	-	-	-	-	632.08 Rent	592032-003 DI	10
GENERAL MOTORS-POWERTRAIN	75006 75GMC0078822	750008431	6/22/07	8/31/07	1,234.49	1,234.49	-	-	-	-	-	-	1,234.49 Rent	592032-002 DI	10
GENERAL MOTORS-POWERTRAIN	75006 75GMC0078822	750008431	6/22/07	8/31/07	338.49	338.49	-	-	-	-	-	-	338.49 Rent	592066-001 DI	10
GENERAL MOTORS-POWERTRAIN	75006 75GMC0078822	750008448	7/18/07	9/30/07	632.08	632.08	-	-	-	-	-	-	632.08 Rent	592032-003 DI	10
GENERAL MOTORS-POWERTRAIN	75006 75GMC0078822	750008448	7/18/07	9/30/07	1,234.49	1,234.49	-	-	-	-	-	-	1,234.49 Rent	592032-002 DI	10
GENERAL MOTORS-POWERTRAIN	75006 75GMC0081501	750008450	7/18/07	9/30/07	802.42	596.15	-	-	-	-	-	-	596.15 Rent	592059-001 DI	10
GENERAL MOTORS-POWERTRAIN	75006 75GMC0081501	750008450	7/18/07	9/30/07	577.87	577.87	-	-	-	-	-	-	577.87 Rent	592059-001 DI	10
GENERAL MOTORS-POWERTRAIN	75006 75GMC0081501	750008452	7/18/07	9/30/07	2,752.34	2,564.54	-	-	-	-	-	-	2,564.54 Rent	592059-001 DI	10
GENERAL MOTORS CORPORATION	87001 87GMC012341118	870000501	7/18/07	9/30/07	433.53	433.53	-	-	-	-	-	-	433.53 Sales Tax	592595-001 DI	10
GENERAL MOTORS CORPORATION	87001 87GMC012341134	870000502	7/18/07	9/30/07	524.78	524.78	-	-	-	-	-	-	524.78 Rent	592595-001 DI	10
GENERAL MOTORS CORPORATION	87001 87GMC012341134	870000502	7/18/07	9/30/07	555.83	303.18	-	-	-	-	-	-	303.18 Sales Tax	592612-001 DI	10
GENERAL MOTORS CORPORATION	87001 87GMC012341134	870000503	7/18/07	9/30/07	3,705.46	2,021.16	-	-	-	-	-	-	2,021.16 Rent	592612-001 DI	10
GENERAL MOTORS CORPORATION	87001 87GMC012341135	870000503	7/18/07	9/30/07	98.13	98.13	-	-	-	-	-	-	98.13 Sales Tax	592613-001 DI	10
GENERAL MOTORS-POWERTRAIN	75006 75GMC0078801	750008979	10/4/07	10/16/07	654.17	654.17	-	-	-	-	-	-	654.17 Rent	592613-001 DI	10
GENERAL MOTORS-POWERTRAIN	75006 75GMC0078801	750008979	10/4/07	10/16/07	35.04	35.04	-	-	-	-	-	-	35.04 Property Tax	592019-001 DI	10
GENERAL MOTORS-POWERTRAIN	75006 75GMC0078803	750008981	10/4/07	10/16/07	77.96	77.96	-	-	-	-	-	-	77.96 Property Tax	592032-001 DI	10
GENERAL MOTORS-POWERTRAIN	75006 75GMC0078803	750008982	10/4/07	10/16/07	76.47	76.47	-	-	-	-	-	-	76.47 Property Tax	592032-003 DI	10
GENERAL MOTORS-POWERTRAIN	75006 75GMC0078822	750008983	10/4/07	10/16/07	42.46	42.46	-	-	-	-	-	-	42.46 Property Tax	592032-002 DI	10
GENERAL MOTORS-POWERTRAIN	75006 75GMC0078822	750008984	10/4/07	10/16/07	149.36	149.36	-	-	-	-	-	-	149.36 Property Tax	592032-002 DI	10
GENERAL MOTORS-POWERTRAIN	75006 75GMC0081501	750008985	10/4/07	10/16/07	69.91	69.91	-	-	-	-	-	-	69.91 Property Tax	592059-001 DI	10
GENERAL MOTORS-POWERTRAIN	75006 75GMC0081501	750008986	10/4/07	10/16/07	615.44	615.44	-	-	-	-	-	-	615.44 Property Tax	592059-001 DI	10
GENERAL MOTORS-POWERTRAIN	75006 75GMC0081501	750008978	10/3/07	10/30/07	802.42	802.42	-	-	-	-	-	-	802.42 Rent	592063-001 DI	10
GENERAL MOTORS-POWERTRAIN	75006 75GMC0081501	750008466	8/16/07	10/30/07	577.87	577.87	-	-	-	-	-	-	577.87 Rent	592032-002 DI	10
GENERAL MOTORS CORPORATION	87001 87GMC012341118	870000504	8/16/07	10/30/07	433.53	433.53	-	-	-	-	-	-	433.53 Sales Tax	592595-001 DI	10
GENERAL MOTORS CORPORATION	87001 87GMC012341134	870000504	8/16/07	10/30/07	524.78	524.78	-	-	-	-	-	-	524.78 Rent	592595-001 DI	10
GENERAL MOTORS CORPORATION	87001 87GMC012341134	870000505	8/16/07	10/30/07	555.83	303.18	-	-	-	-	-	-	303.18 Sales Tax	592612-001 DI	10
GENERAL MOTORS CORPORATION	87001 87GMC012341135	870000505	8/16/07	10/30/07	98.13	98.13	-	-	-	-	-	-	98.13 Sales Tax	592613-001 DI	10
GENERAL MOTORS CORPORATION	87001 87GMC012341135	870000506	8/16/07	10/30/07	654.17	654.17	-	-	-	-	-	-	654.17 Rent	592613-001 DI	10
GENERAL MOTORS-POWERTRAIN	75006 75GMC0078803	750008473	8/16/07	10/31/07	632.08	632.08	-	-	-	-	-	-	632.08 Rent	592032-002 DI	10
GENERAL MOTORS-POWERTRAIN	75006 75GMC0078822	750008474	8/16/07	10/31/07	1,234.49	1,234.49	-	-	-	-	-	-	1,234.49 Rent	592032-002 DI	10
GENERAL MOTORS-POWERTRAIN	75006 75GMC0081601	750008475	8/16/07	10/31/07	338.49	338.49	-	-	-	-	-	-	338.49 Rent	592066-001 DI	10
GENERAL MOTORS-POWERTRAIN	75006 75GMC0081901-R1	750008476	8/16/07	10/31/07	372.50	194.09	-	-	-	-	-	-	194.09 Rent	592063-001 DI	10
GENERAL MOTORS-POWERTRAIN	75006 75GMC0081601	750009052	11/6/07	11/20/07	166.13	166.13	-	-	-	-	166.13	-	Property Tax	592066-001 DI	10

DelinDate	# Days Late	# Months Late (round to months)	Late fee rate	Total late fee
9/9/07	172	6	1%	26.01
9/9/07	172	6	1%	31.49
9/9/07	172	6	1%	18.19
9/9/07	172	6	1%	121.27
9/9/07	172	6	1%	5.89
9/9/07	172	6	1%	39.25
9/10/07	171	6	1%	37.92
9/10/07	171	6	1%	74.07
9/10/07	171	6	1%	20.31
10/10/07	141	5	1%	31.60
10/10/07	141	5	1%	61.72
10/10/07	141	5	1%	29.81
10/10/07	141	5	1%	128.23
10/10/07	141	5	1%	16.92
10/10/07	141	5	1%	21.68
10/10/07	141	5	1%	26.24
10/10/07	141	5	1%	15.16
10/10/07	141	5	1%	101.06
10/10/07	141	5	1%	4.91
10/10/07	141	5	1%	32.71
10/26/07	125	5	1%	1.75
10/26/07	125	5	1%	3.90
10/26/07	125	5	1%	3.82
10/26/07	125	5	1%	2.12
10/26/07	125	5	1%	7.47
10/26/07	125	5	1%	7.47
10/26/07	125	5	1%	3.30
10/26/07	125	5	1%	30.77
10/26/07	125	5	1%	5.21
10/26/07	125	5	1%	23.85
11/9/07	111	4	1%	23.11
11/9/07	111	4	1%	102.58
11/9/07	111	4	1%	17.34
11/9/07	111	4	1%	20.99
11/9/07	111	4	1%	12.13
11/9/07	111	4	1%	80.85
11/9/07	111	4	1%	3.93
11/9/07	111	4	1%	26.17
11/10/07	110	4	1%	25.28
11/10/07	110	4	1%	49.38
11/10/07	110	4	1%	13.54
11/10/07	110	4	1%	7.76
11/30/07	90	3	1%	4.98

Doing Date	# Days Late	# Months Late (round to month)	Late fee rate	Total late fee
12/10/07	80	3	1%	19.33
12/10/07	80	3	1%	18.96
12/10/07	80	3	1%	37.03
12/10/07	80	3	1%	17.88
12/10/07	80	3	1%	0.00
12/10/07	80	3	1%	17.34
12/10/07	80	3	1%	76.93
12/10/07	80	3	1%	10.15
12/10/07	80	3	1%	11.18
12/10/07	80	3	1%	13.01
12/10/07	80	3	1%	15.74
12/10/07	80	3	1%	9.10
12/10/07	80	3	1%	60.63
12/10/07	80	3	1%	2.94
12/10/07	80	3	1%	19.63
12/10/07	80	3	1%	11.92
12/10/07	80	3	1%	0.00
12/10/07	80	3	1%	11.56
12/10/07	80	3	1%	51.29
12/10/07	80	3	1%	8.67
12/10/07	80	3	1%	35.43
12/10/07	80	3	1%	6.06
12/10/07	80	3	1%	40.42
12/10/07	80	3	1%	1.96
12/10/07	80	3	1%	13.08
12/10/07	80	3	1%	12.89
12/10/07	80	3	1%	12.64
12/10/07	80	3	1%	24.69
12/10/07	80	3	1%	7.45
12/10/07	80	3	1%	5.96
12/10/07	80	3	1%	5.78
12/10/07	80	3	1%	0.01
12/10/07	80	3	1%	4.34
12/10/07	80	3	1%	17.72
12/10/07	80	3	1%	3.03
12/10/07	80	3	1%	20.21
12/10/07	80	3	1%	0.98
12/10/07	80	3	1%	6.54
12/10/07	80	3	1%	12.34
12/10/07	80	3	1%	3.38
12/10/07	80	3	1%	3.73
12/10/07	80	3	1%	-
12/10/07	80	3	1%	-

Customer	Acct #	Lease #	Invoice #	InvDate	Due Date	InvAmt	Amount Due	30Days	60Days	90Days	120Days	Over120Days	Transaction	Lease Reference	Grace Days
GENERAL MOTORS-POWERTRAIN	7500675GMC0078801	750008968	918007	11/30/07	644.37	-	-	-	-	-	644.37	-	Rent	592032-001 DI	10
GENERAL MOTORS-POWERTRAIN	7500675GMC0078803	750008969	918007	11/30/07	632.08	-	-	-	-	-	632.08	-	Rent	592032-003 DI	10
GENERAL MOTORS-POWERTRAIN	7500675GMC0078822	750008970	918007	11/30/07	1,234.49	-	-	-	-	-	1,234.49	-	Rent	592032-002 DI	10
GENERAL MOTORS-POWERTRAIN	7500675GMC008061R3	750008963	918007	11/30/07	596.15	-	-	-	-	-	596.15	-	Rent	592050-001 DI	10
GENERAL MOTORS-POWERTRAIN	7500675GMC0081501	750008972	918007	11/30/07	883.53	-	-	-	-	-	0.03	-	Rent	592050-002 DI	10
GENERAL MOTORS-POWERTRAIN	7500675GMC0081501R1A	750008973	918007	11/30/07	577.87	-	-	-	-	-	577.87	-	Rent	592059-001 DI	10
GENERAL MOTORS-POWERTRAIN	7500675GMC0081501R1	750008974	918007	11/30/07	2,564.47	-	-	-	-	-	2,564.47	-	Rent	592059-001 DI	10
GENERAL MOTORS CORPORATION	8700187GMC012341118	750008975	918007	11/30/07	338.49	-	-	-	-	-	338.49	-	Rent	592060-001 DI	10
GENERAL MOTORS CORPORATION	8700187GMC012341118	750008976	918007	11/30/07	433.53	-	-	-	-	-	433.53	-	Rent	592063-001 DI	10
GENERAL MOTORS CORPORATION	8700187GMC012341118	750009069	918007	11/30/07	524.78	-	-	-	-	-	524.78	-	Rent	592595-001 DI	10
GENERAL MOTORS CORPORATION	8700187GMC012341134	750009070	918007	11/30/07	303.18	-	-	-	-	-	303.18	-	Sales Tax	592612-001 DI	10
GENERAL MOTORS CORPORATION	8700187GMC012341134	750009070	918007	11/30/07	3,705.46	-	-	-	-	-	3,705.46	-	Sales Tax	592612-001 DI	10
GENERAL MOTORS CORPORATION	8700187GMC012341135	750009071	918007	11/30/07	98.13	-	-	-	-	-	98.13	-	Rent	592612-001 DI	10
GENERAL MOTORS CORPORATION	8700187GMC012341135	750009071	918007	11/30/07	654.17	-	-	-	-	-	654.17	-	Rent	592612-001 DI	10
GENERAL MOTORS-POWERTRAIN	7500675GMC008061R3	750008993	918007	11/30/07	596.15	-	-	-	-	-	596.15	-	Rent	592032-002 DI	10
GENERAL MOTORS-POWERTRAIN	7500675GMC008061R3	750008990	918007	11/30/07	883.53	-	-	-	-	-	883.53	-	Rent	592032-002 DI	10
GENERAL MOTORS-POWERTRAIN	7500675GMC0081501R1A	750008994	918007	11/30/07	577.87	-	-	-	-	-	577.87	-	Rent	592059-001 DI	10
GENERAL MOTORS CORPORATION	8700187GMC012341118	750008995	918007	11/30/07	2,564.47	-	-	-	-	-	2,564.47	-	Rent	592059-001 DI	10
GENERAL MOTORS CORPORATION	8700187GMC012341118	750009074	918007	11/30/07	433.53	-	-	-	-	-	433.53	-	Rent	592595-001 DI	10
GENERAL MOTORS CORPORATION	8700187GMC012341134	750009074	918007	11/30/07	2,890.10	-	-	-	-	-	2,890.10	-	Rent	592595-001 DI	10
GENERAL MOTORS CORPORATION	8700187GMC012341134	750009075	918007	11/30/07	303.18	-	-	-	-	-	303.18	-	Sales Tax	592612-001 DI	10
GENERAL MOTORS CORPORATION	8700187GMC012341134	750009075	918007	11/30/07	2,021.16	-	-	-	-	-	2,021.16	-	Sales Tax	592612-001 DI	10
GENERAL MOTORS CORPORATION	8700187GMC012341135	750009076	918007	11/30/07	98.13	-	-	-	-	-	98.13	-	Rent	592612-001 DI	10
GENERAL MOTORS CORPORATION	8700187GMC012341135	750009076	918007	11/30/07	654.17	-	-	-	-	-	654.17	-	Sales Tax	592612-001 DI	10
GENERAL MOTORS-POWERTRAIN	7500675GMC0078801	750009001	918007	11/30/07	644.37	-	-	-	-	-	644.37	-	Rent	592613-001 DI	10
GENERAL MOTORS-POWERTRAIN	7500675GMC0078803	750009002	918007	11/30/07	632.08	-	-	-	-	-	632.08	-	Rent	592613-001 DI	10
GENERAL MOTORS-POWERTRAIN	7500675GMC0078822	750009003	918007	11/30/07	1,234.49	-	-	-	-	-	1,234.49	-	Rent	592032-003 DI	10
GENERAL MOTORS-POWERTRAIN	7500675GMC008061R3	750009004	918007	11/30/07	338.49	-	-	-	-	-	338.49	-	Rent	592032-003 DI	10
GENERAL MOTORS-POWERTRAIN	7500675GMC0081501R1	750009005	918007	11/30/07	372.50	-	-	-	-	-	372.50	-	Rent	592060-001 DI	10
GENERAL MOTORS-POWERTRAIN	7500675GMC0078822R1A	750009039	918007	11/30/07	596.15	-	-	-	-	-	596.15	-	Rent	592060-001 DI	10
GENERAL MOTORS-POWERTRAIN	7500675GMC0081501R1A	750009060	918007	11/30/07	577.87	-	-	-	-	-	577.87	-	Rent	592063-001 DI	10
GENERAL MOTORS CORPORATION	8700187GMC012341118	750009061	918007	11/30/07	0.89	-	-	-	-	-	0.89	-	Rent	592032-002 DI	10
GENERAL MOTORS CORPORATION	8700187GMC012341118	750009083	918007	11/30/07	433.53	-	-	-	-	-	433.53	-	Rent	592032-002 DI	10
GENERAL MOTORS CORPORATION	8700187GMC012341118	750009083	918007	11/30/07	1,771.64	-	-	-	-	-	1,771.64	-	Rent	592059-001 DI	10
GENERAL MOTORS CORPORATION	8700187GMC012341134	750009084	918007	11/30/07	303.18	-	-	-	-	-	303.18	-	Sales Tax	592595-001 DI	10
GENERAL MOTORS CORPORATION	8700187GMC012341134	750009084	918007	11/30/07	2,021.16	-	-	-	-	-	2,021.16	-	Sales Tax	592612-001 DI	10
GENERAL MOTORS CORPORATION	8700187GMC012341135	750009085	918007	11/30/07	98.13	-	-	-	-	-	98.13	-	Rent	592612-001 DI	10
GENERAL MOTORS CORPORATION	8700187GMC012341135	750009085	918007	11/30/07	654.17	-	-	-	-	-	654.17	-	Sales Tax	592613-001 DI	10
GENERAL MOTORS-POWERTRAIN	7500675GMC0078822	750009069	918007	11/30/07	1,234.49	-	-	-	-	-	1,234.49	-	Rent	592032-002 DI	10
GENERAL MOTORS-POWERTRAIN	7500675GMC0081501R1	750009070	918007	11/30/07	338.49	-	-	-	-	-	338.49	-	Rent	592032-002 DI	10
GENERAL MOTORS-POWERTRAIN	7500675GMC0081501R1	750009071	918007	11/30/07	372.50	-	-	-	-	-	372.50	-	Rent	592060-001 DI	10
GENERAL MOTORS-POWERTRAIN	7500675GMC0078801	750009103	12/18/07	229/08	644.37	-	-	-	-	-	644.37	-	Rent	592063-001 DI	10
GENERAL MOTORS-POWERTRAIN	7500675GMC0078803	750009104	12/18/07	229/08	632.08	-	-	-	-	-	632.08	-	Rent	592063-001 DI	10

Current Active Leases
as of 2/28/2008

CO.#	ACCT.#	CUST-NAME	LEASE.#	COMM-DATE	MATURITY-DATE	RENT	PmtType	LEASE-EQ-DESC
75	75006	GENERAL MOTORS-POWERTRAIN	75GMC0078801	01-Sep-00	01-Jul-03	644.37 M		FORKLIFTS-ELECTRIC
75	75006	GENERAL MOTORS-POWERTRAIN	75GMC0078803	01-Sep-00	01-Jul-03	632.08 M		FORKLIFTS-ELECTRIC
75	75006	GENERAL MOTORS-POWERTRAIN	75GMC0078822	01-Sep-00	01-Jul-03	1,234.49 M		FORKLIFTS-ELECTRIC
75	75006	GENERAL MOTORS-POWERTRAIN	75GMC0078822R1A	01-Apr-05	01-Apr-07	596.15 M		FORKLIFTS-ELECTRIC
75	75006	GENERAL MOTORS-POWERTRAIN	75GMC0080601R3	01-Apr-07	01-Apr-08	883.53 M		(5) HYSTER E80XL2 LIFT TRUCKS
75	75006	GENERAL MOTORS-POWERTRAIN	75GMC0081501	01-Sep-00	01-Jul-03	577.87 M		FORKLIFTS-ELECTRIC
75	75006	GENERAL MOTORS-POWERTRAIN	75GMC0081501R1A	01-Apr-05	01-Apr-07	2,563.54 M		FORKLIFTS-ELECTRIC
75	75006	GENERAL MOTORS-POWERTRAIN	75GMC0081601	01-Sep-00	01-Jul-03	338.49 M		FORKLIFTS-ELECTRIC
75	75006	GENERAL MOTORS-POWERTRAIN	75GMC0081901-R1	01-Oct-04	01-Oct-05	242.11 M		FORKLIFTS-ELECTRIC
87	87001	GENERAL MOTORS CORPORATION	87GMC012341118	01-Sep-00	01-Mar-04	2,890.10 M		LIFT TRUCKS
87	87001	GENERAL MOTORS CORPORATION	87GMC012341134	01-Sep-00	01-Mar-04	2,021.16 M		LIFT TRUCKS
87	87001	GENERAL MOTORS CORPORATION	87GMC012341135	01-Sep-00	01-Apr-04	654.17 M		FORKLIFTS
Total						<u>\$13,278.06</u>		

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*Attorneys for ATEL Leasing Corporation,
as agent for Eireann II, CAI-UBK Equipment,
CAI-ALJ Equipment, II BU de Mexico
S.A. de C.V. and Eireann III*

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

-----	X	
	:	Chapter 11
In re:	:	
	:	Case No. 05-44481 (RDD)
DELPHI CORPORATION, <u>et al.</u> ,	:	
	:	(Jointly Administered)
Debtors.	:	
-----	X	

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

K. Simone Knox, being duly sworn, deposes and says:

I am not a party to the within action, am over 18 years of age and am employed by
Buchanan Ingersoll & Rooney PC, attorneys for ATEL Leasing Corporation, as agent for Eireann II,
CAI-UBK Equipment, CAI-ALJ Equipment, II BU de Mexico S.A. de C.V. and Eireann III

On March 5, 2008 I served via **U.S. Postal First Class Mail**, a true and correct copy of
CURE CLAIM OF ATEL LEASING CORPORATION, together with exhibits upon all the parties listed
on the attached Service List.

/s/ K. Simone Knox
K. Simone Knox

Sworn before me this
5th day of March, 2008

/s/ Susan Persichilli
Notary Public, State of New York
No. 01PE4778216
Qualified in New York County
Commission Expires December 31, 2010

SERVICE LIST

**In re : DELPHI CORPORATION, *et al* (Debtor)
Chapter 11 -- Case No. 05-44481 (RDD)**

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Four Times Square
New York, New York 10036**

EXHIBIT D

Company	Contact	Address1	Address2	Address3	City	State	Zip
ATEL Capital Group	Vasco H. Morais, Jr.	Sr. VP, General Counsel and Secretary	600 California St 6th Fl		San Francisco	CA	94108
ATEL Leasing Corporation	Mark Pfeiffer	Buchanan Ingersoll & Rooney PC	Two Liberty Place, Suite 3200	50 South 16th Street	Philadelphia	PA	19102
ATEL Leasing Corporation	Peter S. Russ	Buchanan Ingersoll & Rooney PC	620 Eighth Avenue	23rd floor	New York	NY	10018
ATEL Leasing Corporation	Susan P. Persichilli	Buchanan Ingersoll & Rooney PC	One Chase Manhattan Plaza	35th Floor	New York	NY	10005

EXHIBIT E

Company	Contact	Address1	Address2	City	State	Zip
Barnes & Thornburg LLP	Deborah L Thorne Kathleen L Matsoukas	One North Wacker Drive	Suite 4400	Chicago	IL	60606
Johnson Controls Battery Group Inc	Elena Lazarou	Reed Smith LLP	599 Lexington Ave	New York	NY	10022
Johnson Controls Battery Group Inc	Stephen Bobo	Sachnoff & Weaver Ltd	10 S Wacker Dr Ste 4000	Chicago	IL	60606
Johnson Controls Inc	Attn General Counsel	5757 N Green Bay Avenue	PO Box 591	Milwaukee	WI	53201
Johnson Controls Inc	Attn President Battery	5757 N Green Bay Avenue	PO Box 591	Milwaukee	WI	53201
Johnson Controls Inc Automotive Group	Elena Lazarou	Reed Smith LLP	599 Lexington Ave	New York	NY	10022
Johnson Controls Inc Automotive Group	Stephen Bobo	Sachnoff & Weaver Ltd	10 S Wacker Dr Ste 4000	Chicago	IL	60606
Johnson Controls Technology Company	Elena Lazarou	Reed Smith LLP	599 Lexington Ave	New York	NY	10022
Johnson Controls Technology Company	Stephen Bobo	Sachnoff & Weaver Ltd	10 S Wacker Dr Ste 4000	Chicago	IL	60606